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# California Legislature

## SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

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Tuesday, January 9, 2018  
1:30 p.m. — John L. Burton Hearing Room (4203)

### AGENDA

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|-------------|--------|---|
| 1. S.B. 414 | Vidak  | Transportation bonds: highway, street,<br>and road projects.        |
| 2. S.B. 760 | Wiener | Transportation funding: active transportation:<br>complete streets. |
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### FOR VOTE ONLY

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|-------------|----------|---------------------------------|
| 3. S.B. 712 | Anderson | Vehicles: license plate covers. |
|-------------|----------|---------------------------------|



- 5) Requires the Secretary of State to place a measure authorizing these provisions on the June 2018 primary election ballot.

**COMMENTS:**

- 1) *Author's Statement.* According to the author, "Today's High-Speed Rail project is not what voters approved in 2008. This proposed, massive transportation project could end up costing hundreds of billions of dollars and never be completed. It is extremely concerning that Quentin Kopp (the co-author of the original High-Speed Rail legislation, former Senate Transportation Committee chairman and former chairman of the High-Speed Rail Authority) is now opposed to the project. Kopp stated, 'They have just mangled this project... It is the great train robbery... if they can get away with it.' Another former chairman of the Senate Transportation Committee, now Democrat Congressman Mark DeSaulnier, said High-Speed Rail, which is the largest public works project in Californian history, could ultimately cost taxpayers as much as \$350 billion to complete. Having two former chairmen of the Senate Transportation Committee question the performance and truthfulness of those running the High-Speed Rail Authority is a serious wake-up call. Californians deserve the right to vote on whether to spend billions of dollars on High-Speed Rail, or spend that money on roads, highways, and local transit projects."
- 2) *Fulfilling the promise.* Proponents of high-speed rail suggest that the project still technically meets the promises made to voters in 2008. In addition, some advocates argue that the project is transformative and should be pursued regardless of a potentially divergent electorate. These advocates suggest that, while voters today may not approve the project as currently envisioned, when the system is finally running and all of the benefits are realized, Californians will be thankful the state continued to pursue it in the face of its many detractors. They point to the significant opposition to construction of the Bay Area Rapid Transit (BART) system in the 1960s, which today is an integral part of the Bay Area transportation network.

Other supporters of high-speed rail argue that, despite the fact that today's plan may not fully live up to the vision presented to voters in 2008, the large influx of construction dollars and potential jobs created in the Central Valley are too important to risk losing should the voters defeat the project at the ballot. To that end, HSRA reported in their 2017 Project Update Report that the Authority has contracted with 114 certified small and micro businesses throughout the state and has generated \$1.11 billion in economic output in the Central Valley where high-speed rail construction is ongoing. The most updated figures by HSRA note that construction of the high-speed rail project in the Central Valley

improvements, and congestion relief. Specifically, throughout the state, SB 1 funds will be directly allocated to cities and counties for road repairs, local transit agencies for transit improvements, and regional transportation agencies may apply for funds that provide congestion relief. Under SB 1, for example, in fiscal year (FY) 2017-18 the City of Fresno will receive approximately \$3.54 million and Fresno County will receive \$7.16 million in new revenues to be used for road rehabilitation and maintenance and Fresno transit agencies will receive \$5.1 million for transit operational improvements starting FY 2018-19.

This bill, in its current form, proposes to place approximately \$5.8 billion in unissued HSR bond dollars back onto the ballot to be reallocated for road construction, repairs, and transit projects. However, this bill is silent on how the funds would be allocated to public entities. In turn, it's unclear how and in what proportion cities, counties, and transit agencies will receive their share of bond revenues if approved. Additionally, the new and ongoing infusion of SB 1 revenues to local entities will allow for effective long-term planning and programming of funds for transportation projects; it is unclear based on the provisions specified in this bill of the need for a one-time allocation to local entities of borrowed funds that will create additional costs to the state to pay back over a 30-year period. Lastly, with 481 cities, 58 counties and over 100 transit agencies in California and no clear direction on how the bond dollars will be allocated, this bill raises the question as to whether the state is effectively using public dollars to meet the state's unfunded transportation needs or allocating funds to local entities that will provide minimal impact that will ultimately be costly for the state.

- 6) *Second Attempt.* A nearly identical version of this bill was heard by this committee on April 4, 2017 and failed passage on a 3-6 vote. Reconsideration was granted at that time.
- 7) *Urgency.* This bill was amended to include an urgency clause to the measure.
- 8) *Double Referral.* This bill has been double referred to the Senate Governance and Finance Committee.

#### **RELATED LEGISLATION:**

Many prior legislative attempts to reduce the amount of authorized indebtedness for the high-speed rail project have failed in each house:

**AB 76 (Harkey, 2011)** — would have reduced the amount of authorized indebtedness for HSRA to the amount contracted as of January 1, 2012. *AB 76 failed passage in the Assembly Transportation Committee.*

**AB 2121 (Harkey, 2010)** — would have reduced the amount of general obligation debt authorized pursuant to Prop. 1A to the amount contracted by HSRA. It was amended in the Assembly Transportation Committee to instead require HSRA to annually submit a six-year funding program and a project progress report to the appropriate policy and budget committees of the Legislature. *AB 2121 was passed by the Assembly, but died in the Senate Rules Committee.*

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: No

**POSITIONS:** (Communicated to the committee before noon on Wednesday, January 3, 2018.)

**SUPPORT:**

Citizens for California High-Speed Rail Accountability  
Community Coalition on High-Speed Rail

DERAIL

Howard Jarvis Taxpayers Association

Tos Farms Inc.

One individual

**OPPOSITION:**

California Labor Federation

State Building and Construction Trades Council

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a 2011 survey by the Police Executive Research Forum, 75% of law enforcement at that time was using ALPRs, with 85% planning to expand ALPR use. The Police Forum estimated that within five years of the survey, at least 25% of all police vehicles would be equipped with ALPR technology.

- 3) *Privacy concerns.* The collection of a license plate number, location, and time stamp over multiple time points can identify not only a person's exact whereabouts but also their pattern of movement. This data can be collected not only by public entities but also by commercial, private companies that make their datasets available to law enforcement. One such company told *The Atlantic* it had more than four billion scans as of April 2016, collecting over 120 million per month. Unlike other types of personal information that are covered by existing law, civilians are not always aware when their ALPR data is being collected. One does not even need to be driving to be subject to ALPR technology; a car parked on the side of the road can be scanned by an ALPR system.
- 4) *Are license plates personal information?* A 2016 Virginia court case concerning storage of ALPR data (*Harrison Neal vs. Fairfax County Police Department, et. al.*) determined that a license plate number is not personal information. The case cites a number of supporting court cases as recent as 2007, including the *U.S. vs. Walraven* decision (10<sup>th</sup> Circuit, 1989) where the judge determined that a license plate has no privacy interest because a license plate is in plain sight. SB 34 (Chapter 532, Statutes of 2015) established that data collected through the use or operation of an ALPR system must be treated as personal information for purposes of existing data breach notification laws. These laws apply to agencies, persons, or businesses in California that conduct business in the state and own or license computerized data including personal information.
- 5) *ALPR technology as an enforcement tool.* ALPRs eliminate the need for officers to manually enter license plate information by taking photographs of license plates and converting them into text. ALPRs can be found on patrol units, parking enforcement vehicles, and street sweepers, or fixed at common intersections, bridges, airports, and in parking lots. They are used to track stolen vehicles, locate wanted suspects, and enforce parking laws and toll road requirements. This bill only applies to parked vehicles, meaning it would not hamper efforts to track vehicles in motion. However, it would likely make it more difficult for officers to scan plates in residential and business districts with high concentrations of parked cars. Therefore, it could have a significant impact on parking enforcement officers, who would potentially have to exit their vehicle to reveal and scan a covered plate. It could also impede police

- 9) *Opposition.* The California Police Chiefs Association states that this bill “would allow individuals with expired registration, stolen registration tabs, stolen license plates, or stolen vehicles to park in plain sight, undetected by law enforcement.” The California Public Parking Association states that “Allowing for the legal concealing of a plate will required a tailored — manual — approach to parking enforcement for a subset of vehicles that choose to cover the plate.”
- 10) *Reconsideration.* This bill was heard in this committee on May 9, 2017 and failed on a 5-6 vote. It was subsequently granted reconsideration, but has not been amended. Therefore, the committee will not hold another full hearing on this bill, but instead will simply vote on it.

**RELATED LEGISLATION:**

**SB 34 (Hill, Chapter 532, Statutes of 2015)** — Established regulations on the privacy and usage of ALPR data and expanded the meaning of “personal information” to include information or data collected through the use or operation of an ALPR system.

**AB 115 (Committee on Budget, Chapter 38, Statutes of 2011)** — Authorized CHP to retain data from LPR for no more than 60 days, except as specified.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: No    Local: No

**POSITIONS:** (Communicated to the committee before noon on Wednesday, January 3, 2018.)

**SUPPORT:**

Electronic Frontier Foundation (sponsor)  
American Civil Liberties Union of California

**OPPOSITION:**

Association for Los Angeles Deputy Sheriffs  
California Police Chiefs Association  
California Public Parking Association  
League of California Cities  
Los Angeles Police Protective League

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**SENATE COMMITTEE ON TRANSPORTATION AND HOUSING**

**Senator Jim Beall, Chair**

**2017 - 2018 Regular**

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**Bill No:** SB 760 **Hearing Date:** 1/9/18  
**Author:** Wiener  
**Version:** 1/3/18  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Erin Riches

**SUBJECT:** Transportation funding: active transportation: complete streets

**DIGEST:** This bill makes a number of changes intended to focus the state Department of Transportation (Caltrans), the State Highway Operation and Protection Program (SHOPP), and the State Highway Account (SHA) on bicycle, pedestrian, and transit users.

**ANALYSIS:**

*Active Transportation Program (ATP)*

Existing law – SB 99 (Committee on Budget and Fiscal Review, Chapter 359, Statutes of 2013) and AB 101 (Committee on Budget, Chapter 354, Statutes of 2013) – establishes the ATP. The ATP consolidates several federal and state transportation programs, including the Transportation Alternatives Program, Bicycle Transportation Account, and State Safe Routes to School, into a single program. It is administered by the Office of Active Transportation and Special Programs (OAT) in Caltrans' Division of Local Assistance. The ATP aims to increase the number of bicycling and walking trips, increase safety and mobility for bicyclists and pedestrians, reduce greenhouse gas emissions through active transportation, enhance public health, and provide benefits to disadvantaged communities.

Existing law requires the California Transportation Commission (CTC) to adopt a program of projects for the ATP by April 1<sup>st</sup> of each odd-numbered year. The guidelines for the fourth program of projects are scheduled to be adopted by March 2018. The ATP funds must be allocated by the CTC as follows: 40% to metropolitan planning organizations (MPOs) in urban areas with populations greater than 200,000; 10% to small urban and rural areas with populations of 200,000 or less, with projects competitively awarded by the CTC to projects in these regions; and 50% to projects competitively awarded by the CTC on a statewide basis. At least 25% of funds distributed in each of these categories must benefit disadvantaged communities. The

*Caltrans Strategic Management Plan.*

In April 2015, Caltrans released its *Strategic Management Plan 2015-20*. This plan describes Caltrans' goals and objectives, with performance measures connected to each goal. The five goals are as follows:

- 1) Provide a safe transportation system for workers and users, and promote health through active transportation, and reduced pollution in communities.
- 2) Responsibly manage California's transportation related assets.
- 3) Make long-lasting, smart mobility decisions that improve the environment, support a vibrant economy, and build communities, not sprawl.
- 4) Utilize leadership, collaboration and strategic partnerships to develop an integrated transportation system that provides reliable and accessible mobility for travelers.
- 5) Be a national leader in delivering quality service through excellent employee performance, public communication, and accountability.

The plan includes a goal to triple the amount of trips taken by bicycle, and double the amount of trips taken via walking or transit.

*State Bicycle and Pedestrian Plan*

In June 2017, Caltrans released *Toward an Active California: State Bicycle + Pedestrian Plan*. The plan outlines how Caltrans will work with local and regional agencies to achieve the Strategic Management Plan's goals of doubling walking, tripling bicycling, and doubling transit use between 2010 and 2020; reducing bicycle and pedestrian fatalities by 10% each year; and increase the number of complete streets projects by 20%.

*Transportation funding deal*

SB 1 (Beall, Chapter 5, Statutes of 2017), includes the following provisions related to this bill:

- 1) Creates a Road Maintenance and Rehabilitation Program (RMRP), which will fund, among other projects, complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and storm water capture projects in conjunction with any other allowable project.

traveled on the state highway system. Prohibits automobile delay from being used as a performance measure.

- 6) Defines the asset management plan for the SHOPP as an assessment of the condition and performance of the state highway system, rather than as assessment of the health and condition of the system.
- 7) Expands SHOPP funding eligibility to include capital improvements relative to accessibility; specifies that improvements are to benefit all road users, especially pedestrians, bicyclists, and transit users of state highways and bridges; and specifies that the current prohibition on projects that add a traffic lane to the state highway system includes auxiliary lanes, merging lanes, and toll lanes.
- 8) Requires Caltrans, in specifying program costs for each project under the SHOPP, as applicable, to include the development of methods to estimate both the direct and indirect cost of pedestrian and bicycle facilities, for each phase, as specified.
- 9) Requires the performance report relating to the SHOPP to include a description of pedestrian and bicycle facilities on each project, including the number, extent, and cost of the elements relative to the overall project.
- 10) Requires Caltrans, by January 1, 2021, when undertaking any SHOPP-funded project, to include new pedestrian and bicycle facilities, or improve existing facilities, as part of the project, as follows:
  - a) Requires, in urbanized areas, transit priority areas, or priority access areas and on streets and highways with average daily traffic of 10,000 vehicles or more and a speed limit over 25 mph, well-lit bicycle and pedestrian facilities that are physically separated from motor vehicles. Requires bicycle facilities to be designed based on the Highway Design Manual (as updated to incorporate the complete streets concept pursuant to SB 1). Also requires signals or other facilities to enable bicyclists and pedestrians to safely cross the street or highway.
  - b) Defines "priority access areas" as within ½ mile of a public school, community college, university, hospital or health care center, senior center, employment center, park, or grocery store.
  - c) Defines "transit priority area" as within ½ mile of an existing transit stop, or a planned transit stop, if the planned stop is scheduled to be completed

- b) Moves the current top priority, “operation, maintenance, and rehabilitation of the state highway system,” to second.
- c) Requires SHA expenditures on safety improvements to prioritize reducing fatalities and severe injuries for vulnerable road users without increasing vehicle miles traveled.
- d) Eliminates congestion reduction projects from the SHA priority list.
- e) Moves projects that expand capacity to the bottom of the priority list.

The following table provides a side-by-side comparison of current SHA spending priorities vs. the SHA priorities established in this bill:

| <b>Current SHA priorities (in order)</b>   | <b>SHA priorities in SB 760 (in order)</b>   |
|--|--|
| Operation, maintenance, and rehabilitation of the state highway system.  | Accessibility improvements for all users of the transportation system that improve the efficiency of moving people within existing roadways, reduce vehicle miles traveled, and promote public health.   |
| Safety improvements where physical changes, other than adding additional lanes, would reduce fatalities and the number and severity of injuries. | Operation, maintenance, and rehabilitation of the state highway system.  |
| Transportation capital improvements that expand capacity or reduce congestion, or both.  | Safety improvements where physical changes, other than additional lanes, would reduce fatalities and the number and severity of injuries. Safety improvements shall prioritize reducing fatalities and severe injuries for vulnerable road users, and shall not increase vehicle miles traveled. |
| Environmental enhancement and mitigation programs.   | Environmental enhancement and mitigation programs.   |
|  | Transportation capital improvements that expand capacity.  |

- 14) Provides a county with full authority over county roads within its jurisdiction, and a city with full authority over city streets within its jurisdiction, on any issues related to street design and improvements focused

has now been amended to address many of the committee's concerns, including an amendment to remove the RMRA provision completely.

- 4) *Committee concerns.* Although the committee appreciates that the January 3<sup>rd</sup> amendments address many of the committee's questions, the committee still has several concerns; the committee will continue to work with the author as this bill moves forward. These concerns are outlined below.
  - a) *SB 1 implementation.* Caltrans is currently undergoing a significant effort to allocate SB 1 money to as many projects as possible, as quickly as possible. Imposing major new requirements on Caltrans at this time poses a potential risk of slowing down SB 1 implementation.
  - b) *Guidance for Urban Street Design ("This bill," #3).* This bill requires Caltrans to adopt the National Association of City Transportation Officials' *Guidance for Urban Street Design*. As noted above, SB 1 of 2017 requires Caltrans to incorporate complete streets into the Highway Design Manual. It is unclear whether these two directives are compatible.
  - c) *Dismissing auto delay ("This bill," #5).* This bill prohibits automobile delay from being used as a performance measure under the SHOPP. While the committee understands that traffic congestion should not be the only measure of success, it seems inappropriate to exclude it altogether.
  - d) *Including bicycle/pedestrian facilities in SHOPP projects ("This bill," #10).* This bill requires Caltrans to include new bicycle/pedestrian facilities, or to improve existing facilities, as part of every SHOPP project, pursuant to a very detailed set of requirements. While the committee supports incorporating bicycle and pedestrian facilities where feasible, this bill is so prescriptive that it may not be practical. In addition, since the focus of the SHOPP is state highway projects, it is unclear how many projects would feasibly allow for bicycle/pedestrian facilities.
  - e) *Exemptions from including bicycle/pedestrian facilities in SHOPP projects ("This bill," #11-12).* This bill allows for exemptions from the above requirement, but again, is fairly prescriptive. For example, although it exempts projects on streets and highways that are closed to bicycle/pedestrian use, it requires documentation, data, and a public hearing in order to exempt bicycle/pedestrian facilities from other SHOPP projects.
  - f) *Revising SHA priorities ("This bill," #13).* This bill makes a number of changes to the ranked priorities of SHA funding, such as moving "operation,

**SUPPORT:**

American Heart Association/American Stroke Association (co-sponsor)  
California Bicycle Coalition (co-sponsor)  
California Walks (co-sponsor)  
Safe Routes to School National Partnership (co-sponsor)  
Bike East Bay  
Bike San Gabriel Valley  
Breathe California  
California Greenworks  
California Pan-Ethnic Health Network  
California Park and Recreation Society  
Center for Climate Protection  
City of Santa Monica  
Coalition for Sustainable Transportation  
Greenfield Walking Group  
Investing in Place  
LA Conservation Corps  
Los Angeles County Bicycle Coalition  
Los Angeles Walks  
Los Angeles Vision Zero Alliance  
Marin County Bicycle Coalition  
Mission: Pedestrian  
Parents for Safe Routes  
Pasadena Complete Streets Coalition  
Pathways to Right-of-Ways  
San Francisco Transit Riders  
Shasta Living Streets  
Silicon Valley Bicycle Coalition  
Sonoma County Bicycle Coalition  
Vision Zero Network  
Walk and Bike Mendocino  
Walk Long Beach  
Walk Oakland Bike Oakland  
Walk San Francisco  
6 individuals

**OPPOSITION:**

None received