



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 4b

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Memorandum

TO: Legislation Committee

DATE: September 4, 2009

FR: Deputy Executive Director, Policy

RE: Update on AB 744 (Torricono): Bay Area Express Lane Network

AB 744 (Torricono), which MTC sponsored this year to authorize a regional express lane network throughout the Bay Area, has become a two-year bill. The bill currently resides in the Senate Appropriations Committee and will be taken up when that committee resumes hearings next year. Unless the bill is made into an urgency bill, requiring a two-thirds vote, the earliest it will now go into effect is January 2011. This will likely cause a delay in the original 2016 target date for the full implementation of the 800-mile express lane network.

While the bill received significant bipartisan support in the State Assembly (with a vote of 12-1 in the Assembly Transportation Committee and 58-18 on the floor) it encountered more difficulty in the Senate Transportation and Housing Committee, where substantial amendments were made (see Attachment A). The bill also encountered last-minute opposition from the Caltrans engineers' union, Public Engineers in California Government (PECG), and several statewide environmental organizations. Below is a brief summary of the concerns that were raised and a discussion of next steps.

Environmental Concerns

MTC staff met with representatives of the Sierra Club, the Environmental Defense Fund and the Natural Resources Defense Fund on numerous occasions to attempt to address their concerns, which fall into the following categories:

1. A significant percentage of the net revenue should be dedicated to public transit.
2. Concern about the vehicle emissions and "sprawl" impact caused by the additional 300 miles of new capacity and distrust in MTC's air quality analysis which finds that the express lane network produces significantly fewer greenhouse gas emissions than what would occur in the absence of the legislation.
3. A desire for public transit operators to be represented on express lane network committees (both the Bay Area Express Lane Network Project Oversight Committee and the corridor working groups).

While staff drafted amendments to address these concerns, they were ultimately rejected by the groups as not going far enough.

PECG Concerns

PECG's interest in AB 744 is very straightforward; they seek to use this legislation to increase their role with respect to work done on the state highway system by local agencies.

PECG argues that as the owner and operator of the state highway system, Caltrans's employees, as represented by PECG, should retain control of this work. While Proposition 35 (2000) now prohibits

the state from assigning the work directly to Caltrans engineers, by designating the department as the responsible agency, PECG believes that they would have a much better chance at securing jobs for their members.

In its current form, AB 744 specifies that the roles and responsibilities of the Bay Area Toll Authority (BATA), Caltrans and the California Highway Patrol will be determined by cooperative agreement. Similar language exists in all other express lane bills that the state has passed to date and we believe it is unfair to impose a different standard on the Bay Area simply because it is a more ambitious proposal. PECG readily admits that while they did not oppose previous bills authorizing express lanes, they have taken a unique interest in AB 744 due to its ambitious scale. While staff has attempted to draft various amendments to address their concerns, there appears to be very little room for compromise as the assignment of any particular element of project development to PECG represents a reduction in the flexibility that local agencies enjoy today when building state highway projects with local funds.

Next Steps

We are committed to the vision of an express lane network and believe its prospects are strong. Over the fall, MTC legislative staff will meet with congestion management agencies, public transit agencies, and other organizations interested in the subject to develop a consensus strategy on any proposed amendments to ensure enactment of the bill.



Ann Flemer