

**Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee**

January 14, 2022

Agenda Item 3b

Bipartisan Infrastructure Law Implementation

Subject:

Overview of opportunities at the state level to maximize the region's benefits from the new federal infrastructure bill.

Background:

The nearly \$1 trillion 2021 Bipartisan Infrastructure Law (BIL) funded a \$477 billion five-year surface transportation authorization along with \$157 billion in supplemental stimulus funding to be distributed through more than two dozen grant programs over five years. BIL funding is distributed via the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and discretionary grant programs administered by the U.S. Department of Transportation. Federal law provides that FHWA funds are directed to California and other states, which are then charged with distributing those resources. In contrast, the vast majority of California's federal transit administration (FTA) formula funds are distributed directly to MTC (in the Bay Area) and other FTA designated recipients around California, bypassing the state. Discretionary grant programs – the other major BIL transportation funding category – are administered directly by the U.S. Department of Transportation. Thus, the state-level implementation strategy outlined below and in Attachment A is focused on ensuring the Bay Area maximizes resources from California's FHWA funds.

Summary:

BIL increases California's federal highway funding to \$30 billion over five years, a more than 50 percent increase from the approximately \$19.4 billion authorized under the previous five-year law. Most of these funds (\$24 billion) are distributed through modified versions of existing federal highway programs. Important modifications which are targets for implementing legislation include allowing resilience as an eligible activity within a key state highway system-oriented funding program and increasing the proportion of federal active transportation resources to be distributed through regional competitive grant programs. BIL distributes the remaining \$6 billion through new bridge, resilience, carbon reduction, and electric vehicle charging infrastructure programs, which will likely require implementing legislation.

Staff have identified several options to maximize the Bay Area's share of California's BIL funding, which are summarized below and detailed in Attachment A, and are engaging in BIL federal highway program implementation discussions both with state transportation agencies and the California Legislature. We look forward to hearing your feedback on this approach.

BIL Implementation Options to Maximize Bay Area Funding

- New Regional Climate Change Mitigation Funds
 - Ensure MTC receives our \$71 million share of California's flexible Carbon Reduction Program by requiring that the state sub-apportion 65 percent of the program funds to MTC and other regions in the same manner as regional surface transportation funds.
- Resilience: \$2.5 Billion for Competitive Grants and Caltrans Demonstration Projects
 - Fund new state climate adaptation grant program from California's new PROTECT formula funds and direct Caltrans to fund resilience demonstration projects on the state highway system with federal highway funds that are newly eligible to be spent on resilience.
- Bridge Funding for Bay Area Local Bridges and State-owned Toll Bridges
 - Support local bridges and Bay Area Toll Authority-operated state-owned toll bridges in receiving share of the state's \$4.25 billion in one-time state-of-good-repair bridge formula funding
- Regional Active Transportation Program (ATP)
 - Consider increasing portion of California's ATP program that is administered by regions

Attachments:

- Attachment A: Bay Area Funding Opportunities



Therese W. McMillan

Bipartisan Infrastructure Law Implementation

Background:

The Bipartisan Infrastructure Law (BIL) will increase California's federal highway funding to \$30 billion over five years, a more than 50 percent increase from the approximately \$19.4 billion authorized under the previous five-year law. In prior updates to the federal surface transportation program, the Legislature has enacted implementing legislation to direct how new federal funds should be distributed. Staff has identified a number of opportunities where we believe legislation may be warranted to maximize the region's benefits from the BIL, as outlined below.

New Regional Climate Mitigation

Proposal:

Ensure suballocation of the Bay Area's estimated \$71 million from the new flexible Carbon Reduction Program by requiring that the state sub-apportion 65 percent of the program funds to MTC and other regions in the same manner as regional Surface Transportation Block Grant Program (STP) funds.

Lead Partners:

California Association of Councils of Governments and regional transportation agency partners across the state.

Background:

The BIL expands the core federal highway program to include a new Carbon Reduction formula program, 65 percent of which is required to be suballocated based on population. This suballocation requirement mirrors the existing STP program. Under California law, suballocated STP funds by state law are required to be sub-apportioned to regional transportation planning agencies, such as MTC. This sub-apportionment of STP is a primary funding source for our One Bay Area Grant (OBAG) program. We estimate the Bay Area would receive \$71 million from the new carbon reduction program. Although this is a small share of the Bay Area's estimated \$1 billion in flexible federal highway funds, it accounts for 35 percent of the increase in funding compared to the previous surface transportation law. Implementing legislation requiring the state sub-apportion these funds to regions—in line with how suballocated STP funds are treated—would ensure MTC and regional agencies statewide receive direct funding from this program,

which will help fund greenhouse gas reduction strategies in Plan Bay Area 2050 and sustainable communities strategies across the state.

Resilience: \$2.5 Billion for Competitive Grants and Caltrans Demonstration Projects

Proposal:

Establish a new transportation-related climate adaptation grant program from California's new federal resilience formula funds and direct Caltrans to fund resilience demonstration projects on the state highway system with federal highway funds that are newly eligible to be spent on resilience. The new program could be augmented by Fiscal Year 2022-23 State Budget General Fund resources requested in the Bay Area transportation agencies' budget letter (\$1 billion was requested for this purpose).

Lead Partners:

Bay Area Regional Collaborative and other Bay Area regional resilience partners; State Route 37 partners

Background:

The BIL creates a new highway formula program focused on resilience named PROTECT. California would receive \$631 million over five years from PROTECT, a modest sum given the resilience need. If bundled with our request for \$1 billion in state budget funds, the Legislature could create a \$1.6 billion state climate adaptation grant program for transportation resilience planning and project implementation. This approach is modeled after the state's implementation of a freight formula program in 2015 after enactment of the previous federal surface transportation law. California's freight formula program was funded at a similarly modest amount. Instead of distributing it in small increments statewide, the funds were bundled with other state resources to create the competitive Trade Corridor Enhancement Program.

In addition to the dedicated PROTECT formula program, up to 15 percent of California's National Highway Performance Program (NHPP) funds (equivalent to \$1.9 billion) are newly eligible to be spent on resilience. Since this provision is permissive, rather than required, there's a chance that the state could direct all these funds to traditional State Highway Operation and Protection Program (SHOPP) projects, potentially missing the opportunity to make critically

needed investments in climate resilience. State legislation could instead require these funds to be spent on state highway system resilience demonstration projects across the state.

Bridge Funding for Bay Area Local Bridges and State-owned Toll Bridges

Proposal:

Ensure Bay Area local bridges and Bay Area Toll Authority-operated state-owned toll bridges are eligible to receive funding from California's infusion of \$4.25 billion for bridge repair and replacement.

Lead Partners:

California State Association of Counties (CSAC)

Background:

The BIL provides California with approximately \$4.25 billion in one-time bridge funding, to be distributed over five years. Based on initial conversations with Caltrans, it seems likely that the state will apply its traditional 55 percent – 45 percent split to the funds, with 55 percent of the funds directed to the local bridge program and the rest to state highway system bridges. CSAC is leading the effort to both support this 55-45 split for this program and to ensure that the new bridge formula resources augment (vs. displace) existing local bridge program resources. Since the BATA bridges are state-owned, they have not been eligible for the local portion of the federal bridge program's funding. At the same time, while BATA bridges are state-owned, BATA has primary responsibility for maintenance and rehabilitation of the region's state-owned bridges.

The reduction in vehicle traffic in the bridge corridors due to COVID-19 reduced toll revenue by over \$300 million, slowing the delivery of our Toll Bridge Rehabilitation Program. BATA sought funding from the state to help offset this revenue loss from federal COVID relief funds that came to Caltrans but has received no assistance to date. Given the goal of the BIL is to help improve the condition of both state and local bridges across the nation, and BATA is ineligible for the local portion, we think there's a good argument for us to pursue eligibility for the state share of these one-time funds.

Regional Active Transportation Program (rATP)

Proposal:

Consider increasing share of California's Active Transportation Program (ATP) that is distributed by regions.

Lead Partners:

Regional transportation planning agencies and bicycle advocacy organizations

Background:

California's ATP will grow by 25 percent with the influx of resources from the BIL. While the law increases by 80 percent federal active transportation formula funding, but because state resources augment ATP, it's a roughly 25 percent boost overall from \$1.1 billion to \$1.4 billion over five years. The bill also increases by nearly 10 percent the portion of the federal active transportation funds that must be administered via regional competitive grant programs. These changes present an opportunity to revisit the existing split in the state's statute, which provides 50 percent to the statewide competitive program, 10 percent to a rural counties competitive program and 40 percent to RTPAs via suballocation, similar to STP. Staff does not envision leading on this proposal and would only recommend MTC support it if there is broad interest in change among key partners across the state.