

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

May 13, 2022

Agenda Item 3a

Assembly Bill 2237 (Friedman): Transportation Funding and State Climate Goals

Subject:

Prohibits regions from funding projects not aligned with state climate goals and adds state climate goal alignment requirements to projects funded from local transportation tax measures.

Background:

Sustainable Communities Strategies and State Climate Goals

California's current goal to reduce greenhouse gas emissions (GHGs) to 40 percent below 1990 levels by 2030 was established by Senate Bill 32 (Pavley, 2016), which expanded upon the landmark 2006 Assembly Bill (AB) 32 (Nunez), which required California to reduce GHGs to 1990 levels by 2020. Senate Bill (SB) 375 (Steinberg, 2008) directs the California Air Resources Board (ARB) to set regional greenhouse gas emissions reduction targets from passenger vehicles and requires each region to develop a sustainable communities strategy (SCS) that outlines a land use and transportation investment strategy to achieve those emissions reductions. The SCS is the means by which SB 32 (and AB 32 before it) is achieved for passenger vehicle-related GHG reduction. This relationship is detailed in ARB's Scoping Plan, which incorporates the SB 375 targets into the state's overarching methodology for achieving the SB 32 goal. Sustainable communities strategies are required to be integrated into each region's federally mandated long range regional transportation plan (RTP).

Plan Bay Area 2050

MTC and ABAG's most recently adopted RTP/SCS is Plan Bay Area 2050 (Plan). The Plan includes a fiscally constrained list of transportation projects and programs of projects that can reasonably be funded from local, regional, state and federal transportation revenues within the Plan timeframe. The Plan's package of transportation investments paired with transportation and land use policies must achieve ARB's SB 375 target for the Bay Area (19 percent per capita GHG reduction by 2035). In addition, the Plan must meet federal Clean Air Act standards, analyzed and affirmed through a federally required air quality conformity analysis.

Numerous performance assessment activities informed Plan Bay Area 2050, including a robust transportation project-level analysis of proposed major transportation investments. Projects were assessed based on societal benefits as compared to cost—including benefits related to the environment, accessibility, reliability, health, and safety—as well as equity impacts. These assessments helped inform the transportation strategies (including programs of projects) that were incorporated into the Plan. For context on the level of work required for the project-level performance analysis for the Plan, it took multiple staff working for over a year to conduct a thorough analysis of the 94 major projects and programs of projects included in the Plan’s project-level performance assessment.

Federal and Regional Transportation Improvement Program

Federal law requires that MTC and other metropolitan planning organizations (MPOs) further create a near-term investment plan—the federal transportation improvement plan (TIP)—that includes transportation projects with a federal nexus (projects funded with federal funds or that require a federal action). The TIP must be consistent with the RTP/SCS and must independently meet federal air quality conformity requirements. Regarding state highway and transit improvement funding, MTC is required to develop a “regional transportation improvement program” (RTIP)—which assigns states funds to the region’s project priorities in the partially federally-funded State Transportation Improvement Program. RTIPs must also be consistent with the RTP/SCS and the California Transportation Commission (CTC) further requires a performance evaluation of each RTIP, demonstrating how it furthers the goals of the region’s RTP/SCS.

AB 2237 Summary

AB 2237 would make the following updates related to regional project assessments and alignment with state climate goals, defined in the bill as the goals expressed in SB 375, SB 32, the 2021 Climate Action Plan for Transportation Infrastructure and state and federal air quality standards under the federal Clean Air Act:

- **Transportation Project Prioritization:** AB 2237 would require that each regional transportation planning agency or county transportation commission rank all transportation projects and prioritize projects based on their adherence to its most recently adopted RTP/SCS *and* the state’s climate goals. Of note, the bill language

appears to require a ranking of projects within the RTIP, though the author's office has shared that the intent is that regions and county transportation commissions rank all projects in an adopted RTP/SCS. Notably, the bill then requires regional transportation planning agencies and county transportation commissions *to fund and implement projects in the order of this prioritization*. This would significantly curtail regional discretion and the ability to prioritize projects in accordance with local/regional priorities—which *include but aren't limited to* climate goals—as well as funding opportunities.

- **ARB and California Transportation Commission (CTC) Review and Project Funding Prohibition:** The bill would add a new level of ARB oversight of transportation funding decisions by requiring that it review the ranked lists (in consultation with the CTC) to determine each project's consistency with the region's SCS and state climate goals. A regional transportation agency or county transportation commission *would be prohibited from funding any project or program ARB deems inconsistent* with its most recently adopted SCS or state climate goals. Regions that approve projects consistent with the SCS and state climate goals would receive additional resources from surplus state transportation funds and federal funds, upon appropriation by the Legislature.
- **RTIP:** The bill would require that each project and program included in a region's RTIP be consistent with state climate goals. (As noted above, current law already requires that RTIP projects be consistent with the SCS).
- **Local Transportation Tax Measures:** The bill would require that MTC and partner agencies prepare a report for the CTC summarizing all local transportation tax measures within its jurisdiction and analyzing the tax measures' alignment with the SCS and state climate goals. The CTC (in consultation with ARB) would be required to review the reports and prepare recommendations on alignment of local tax measures with the state's climate goals. AB 2237 would further provide that projects funded by local tax measures shall, to the extent permitted by the terms of the local tax measures, be included in each region's RTP/SCS and adhere to the SCS and the state's climate goals.

Recommendation: Oppose unless amended / MTC

Discussion:

AB 2237 seeks to implement recommendations from the February 2022 Strategic Growth Council's [California Transportation Assessment Report](#) (commonly referred to as the "AB 285 Report" after the 2019 bill authored by Assemblymember Friedman) which analyzes state and regional plans and makes recommendations to better align investments with the ambitious climate visions laid out in those plans. As shared in our comment letter on the report (see Attachment A), we concur with a number of the report's findings, including the need to align the goals of various state programs and agencies. We also believe it's appropriate to review current policies and project pipelines and agree that the mismatch in MPO responsibilities and authorities with respect to transportation investments and land use present challenges to SCS implementation. However, we have several concerns about the approach AB 2237 takes to implementing the findings.

First and foremost, we are concerned about the manner in which the bill elevates climate considerations above all other goals, such as equity, safety, accessibility, state of good repair, and mobility without consideration for the significant consequences that could result. This is a significant overreach of state authority that would enable ARB and CTC to prohibit an MPO/regional transportation planning agency from using resources within its discretion to fund a high-priority project even if it's consistent with its adopted RTP/SCS designed to achieve the state GHG reduction targets for the region. For example, MTC/BATA could be prohibited from implementing a bridge rehabilitation project funded from a federal state of good repair grant because ARB determines the project doesn't provide GHG reduction benefits. Similarly, the requirement to prioritize and implement all transportation projects within a region *solely based on the degree each project accelerates climate goals* could result in the perverse situation where an MPO could be required to advance funding to a multi-billion dollar transit expansion project that's in the early project development phase while a "ready-to-go" equity-focused project like MTC's Clipper START pilot could be forced to wait. Given the wide array of existing funding sources (many of which are not focused on climate change), this approach ignores the complexity of transportation programming which involves matching anticipated formula and competitive funding programs with eligible projects that advance the Plan's various goals. A

more appropriate approach to accelerate the achievement of climate goals would be for the state to focus its discretionary funds on projects that it determines advance state goals.

Additionally, we're concerned that the bill's requirement that regions assess each project's alignment with its SCS *and* the "state climate goals" within SB 375, SB 32 and the Clean Air Act would be duplicative at best and would come at the expense of staff time spent designing, implementing, and overseeing effective policies and programs. Existing state and federal requirements already necessitate consistency with the SCS; if there is a difference between the SCS and state climate goals with respect to transportation, the bill should more clearly delineate those differences or better yet, revise the SCS statute so that it reflects those goals and thus eliminate the need to reference multiple sets of climate and air quality goals.

We also have numerous technical concerns about ambiguities in the bill. As detailed above, it would introduce new parameters for determining which projects regional agencies may fund and implement, but it is unclear if these new parameters would be broadly applicable across all regional, state, and federal fund sources programmed by a regional agency, or more narrowly applied to something like projects "funded" (i.e., listed) in an RTP/SCS or an RTIP. Similarly, it is unclear if the bill would require a project-level evaluation for every individual project in the RTP/SCS (Plan Bay Area 2050 included hundreds of projects and programs of projects). Clarity on these and other similar issues in the bill is needed to inform further analysis.

For these reasons, we recommend MTC oppose AB 2237, unless it is amended to address the concerns identified above.

Known Positions: See Attachment B

Attachments:

- Attachment A: MTC Comment Letter on AB 285 Report
- Attachment B: Assembly Bill 2237 (Friedman) Positions



Therese W. McMillan



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April 28, 2022

Lynn von Koch-Liebert, Executive Director
California Strategic Growth Council
1400 Tenth Street
Sacramento, CA 95814

RE: California Transportation Assessment (Pursuant to Assembly Bill 285)

Dear Ms. von Koch-Liebert:

The Metropolitan Transportation Commission and the Association of Bay Area Governments (MTC/ABAG) thank the California Strategic Growth Council and the University of California Institute of Transportation Studies research team on their report on the state of transportation policy, planning, and implementation in California. We appreciate the opportunity to comment on the California Transportation Assessment and look forward to continued partnership with our transportation peers at the local, regional, and state levels to make progress toward shared climate and equity goals.

Regional agencies have spent decades cultivating knowledge and relationships at the local and state levels, and MTC/ABAG firmly supports equipping MPOs with the funding and authority they need to address some of the implementation challenges documented in the California Transportation Assessment. MTC/ABAG urges the state to partner with MPOs to supply regions with the additional tools to accomplish our mandates.

MTC/ABAG concurs with a number of the findings highlighted in the California Transportation Assessment, including the need to align the goals of various state programs and agencies; the benefits of reviewing current policies, programs, and pipeline projects to verify their alignment with state goals and make alterations if needed; the challenges presented by the mismatch in MPO responsibilities and authorities in both the transportation and land use spaces; and the value of instituting and evaluating demonstration programs that deploy innovative solutions to entrenched institutional challenges. As the state now turns to acting on the recommendations included in this report, MTC/ABAG appreciates the opportunity to provide feedback to ensure that resulting changes best empower regional agencies to support shared climate and equity goals.

To implement RTP/SCS strategies more effectively, MPOs need both increased funding and augmented authority across the interrelated spheres of housing, land use, and transportation.

MTC/ABAG concur with the report's finding that MPOs are well-suited to implement the recommendations included in RTP/SCS documents, though efficacy is limited by a lack of implementation authority and funding. In particular, housing and land use policies have proved to be among the most effective ways to reduce greenhouse gas emissions, yet the options for an MPO to encourage local implementation are currently limited. For example, MTC/ABAG's Priority Development Area (PDA) grant program funds local planning efforts that will allow more housing and jobs in locally identified growth areas, many of which are near job centers or transit stations. However, the program's efficacy has sometimes been limited by local choices to plan for significantly lower levels of growth than would be necessary to achieve the ambitious climate targets set by the state.

Additional MPO-controlled funding that is flexible enough to support transportation, land use, or housing investments is needed, which could come through the augmentation of existing funding programs or through new state programs, such as a third round of the Regional Early Action Planning Grant. Beyond funding, expanded MPO authority is of equal, if not greater, importance to the successful implementation of RTP/SCS strategies. Namely, MPOs need a more varied array of tools to get from RTP/SCS recommendation to implementation. This could include expanded authority to pilot innovative approaches within their boundaries, stronger partnerships with the state that allow the option for the MPO to spur state implementation action, or augmented regional implementation authorities. Given that the report does not make detailed prescriptions on ways to enact changes to MPO authority, MTC/ABAG strongly recommends involving MPOs at key decision points in order to steer policy changes in the most effective direction.

To measure RTP/SCS implementation, take a more holistic look that expands beyond the TIP to cover the wide range of funding spent on transportation.

In an effort to assess the alignment of envisioned investments in the RTP with on-the-ground spending, the California Transportation Assessment includes a modal comparison of RTP investments and TIP investments. As the TIP only includes investments with a federal nexus (i.e., projects that are federally funded, require a federal action, or are considered regionally significant for air quality conformity purposes), this presents a limited picture of regional transportation spending. This excludes the majority of transit operating expenses and projects funded by county sales taxes, which tend to focus on fix-it-first maintenance investments, active transportation, and transit enhancements.

Furthermore, transportation funding actions represent only a fraction of the work needed to implement the coordinated transportation and land use recommendations included in an RTP/SCS. Relying on the TIP excludes impactful policy work like land use changes, public transit fare policy reform, electric vehicle incentives, seamless transit enhancements, and roadway pricing. Rather than utilizing the TIP to assess implementation, MTC/ABAG recommends that the state work with MPOs to develop near-term implementation plans for each RTP/SCS, which would include concrete actions that the state and MPO can track to monitor implementation. For example, Plan Bay Area 2050's Implementation Plan outlines

approximately 80 near-term actions to advance the plan's strategies, and staff will update the Commission and ABAG Executive Board on progress annually.

To harmonize state planning efforts to best support state goals, focus on the prioritization of cost-effective, equitable solutions.

MTC/ABAG agrees with the report's conclusions that the state should assess its policies and programs to identify and rectify any conflicting state goals and actions. In pursuing this effort, it is critical that climate and equity goals be advanced together.

To do so, the state must better prioritize its investments while considering financial capacity, weighing tradeoffs across a broad range of policy objectives and goals. This would help to address a deficiency in current state plans, including the California Transportation Plan (CTP) and State Rail Plan, that are largely aspirational in nature, and it could inform future shifts in transportation monies that would better advance local priority projects that support sustainability and equity goals.

Additionally, MTC/ABAG supports streamlining the roles and responsibilities of the various state agencies that currently participate in the transportation planning and programming sphere. Simplifying overlapping authority across state institutions can make the transportation work faster, more efficient, and more transparent. Alignment between state agencies should not come through the addition of new agency review steps within the planning and programming stages, which could result in schedule delays and would further complicate public engagement around state action.

To reform state funding programs to best support state goals, seek alignment with actions that support RTP/SCS implementation at the regional level.

Reforming existing state funding programs, while necessary, will require close collaboration with MPOs to ensure that changes do not conflict with steps to further empower MPOs to implement RTP/SCS recommendations (e.g., changes should not reduce flexible funding made available to MPOs for RTP/SCS implementation or otherwise limit RTPA programming authority). Funding sources like the STIP are among the few flexible funding sources available to MPOs, and therefore close collaboration with MPOs on any changes to this program is key. MTC/ABAG supports the use of set-asides, targets, and recommendations as tools for revising existing state funding programs.

When assessing the criteria used to distribute state funding through sources like the SHOPP and the STIP, MTC/ABAG recommends prioritizing projects that cost-effectively advance equity and reduce emissions, even if those projects may not be as high-profile or may not be legacy pipeline projects. Given the urgency of our climate crisis and the need to eliminate racial and economic disparities, it is imperative to act based on the evidence. For example, there is a great degree of opportunity to prioritize programming SHOPP funds toward maintenance and rehabilitation projects that also include complete street elements that benefit transit riders, pedestrians, and cyclists. Directing transit funding toward several rapid bus or BRT projects instead of a single higher-cost rail expansion may similarly have greater climate and equity benefits in a shorter time frame.

Finally, MTC/ABAG understands the importance of taking a fresh look at pipeline projects to ensure that state funds are most effectively aligned with state goals. However, disrupting complex projects that are years, if not decades, in the making, could present political challenges, such as the perception that transportation agencies are breaking commitments made to voters. As such, MTC/ABAG suggests that the state should create opportunities for pipeline projects to improve their alignment with state goals, eliminating projects from the pipeline only when truly necessary. As an example, sponsors of road widening projects currently in the pipeline could be required to improve accessibility for users of shared or active modes of transportation in order to be eligible to receive future funding allocations.

Thank you for your consideration of these comments. We look forward to continuing to work with you to improve planning processes at the local, regional, and state levels to deliver a more sustainable, equitable transportation system to benefit all Californians today and into the future. Please contact Matt Maloney, Director of the Regional Planning Program (mmaloney@bayareametro.gov) with any questions or to discuss further.

Sincerely,

A handwritten signature in dark ink, appearing to read "Therese W. McMillan", with a stylized flourish at the end.

Therese W. McMillan
Executive Director

Bill Positions on Assembly Bill 2237 (Friedman)

Support:

- American Lung Association in California
- California Bicycle Coalition
- California Environmental Voters
- CivicWell
- Climate Reality Project, San Fernando Valley
- Coalition for Clean Air
- Plug in America
- Streets for All

Oppose:

- California Asphalt Pavement Association
- California Association of Councils of Government
- California Building Industry Association
- California State Association of Counties
- League of California Cities
- Madera County Transportation Commission
- Rural County Representatives of California
- San Joaquin Valley Policy Council
- San Louis Obispo Council of Governments
- Santa Barbara County Association of Governments
- Stanislaus County of Governments
- Transportation Agency for Monterey County
- Transportation California
- Urban Counties of California