

Metropolitan Transportation Commission
MTC Legislation Committee

October 11, 2019

Agenda Item 3a

2019 Legislative Scorecard

Subject: Overview of legislative outcomes relative to the joint MTC/ABAG 2019 Advocacy Program.

Overview: At the time of this writing, the Governor's office is facing an October 13 deadline to either sign or veto 532 bills passed by the Legislature in 2019, having already signed 786 bills this year. To date, the Governor has deferred action on any housing bills supported by MTC and has acted on only two of MTC's transportation-related priority bills, both enacted much earlier in the year (See Items 2D and 3 in the attachment).

Our 2019 Legislative Scorecard, which compares our advocacy program with outcomes in Sacramento and Washington D.C. to date, is attached for your reference.

Staff will provide an update with the latest information at your meeting.

Attachments: Attachment A: 2019 Legislative Scorecard


Therese W. McMillan



METROPOLITAN
TRANSPORTATION
COMMISSION

2019 Legislative Scorecard



Association of
Bay Area Governments

STATE		
Issue	Goal	Outcome
1. Housing Crisis	A. Support bills to address the 3Ps	<p>As of this writing, eight housing bills supported by both MTC and ABAG are awaiting action by the Governor. These include AB 1482 (Chiu), the anti-rent gouging bill, and several production-related bills, including those aimed at increasing funding for affordable housing (AB 1487 (Chiu)), streamlining of production of accessory dwelling units (ADUs) and middle-income housing (AB 68 (Ting) and AB 1485 (Wicks)), and increasing availability of public land for affordable housing and awareness of land zoned for residential development (AB 1486 (Ting)).</p> <p>Also awaiting action by the Governor is SB 330 (Skinner), supported by MTC but not ABAG, which for five years provides greater certainty to developers with respect to project approval and fee requirements and prohibits downzoning in high-rent, low-vacancy areas unless there is “no net loss” in development capacity. SB 50 (Wiener), which originally resembled CASA Compact Element 5 focused on upzoning near public transit, was held in the Senate Appropriations Committee. It evolved significantly in the legislative process to incorporate lower development capacity standards for counties with fewer than 600,000 residents, include upzoning in job-rich areas, and authorize four-plexes statewide. Senator Wiener has indicated he intends to resume efforts to advance the bill in 2020 and is working on amendments this fall.</p>

Issue	Goal	Outcome
	<p>B. Support complementary legislative efforts to increase funding for affordable housing and accelerate production</p>	<p>The FY 2019-20 State Budget allocated \$2.4 billion to help support housing production and address homelessness throughout the state. In addition to directly funding affordable housing, housing-supportive infrastructure, and homelessness, the budget provides significant planning and housing-supportive infrastructure resources to local governments and councils of government (COGs). Staff worked to ensure that a portion of those planning funds will be available to support ABAG in fulfilling the near-term planning requirements, including development of a Regional Housing Needs Allocation (RHNA) education and outreach strategy. The primary trailer bill implementing these provisions, AB 101, was signed in August and a clean-up bill authorizing early access to the COG funding (SB 113) awaits approval by the Governor. Related to RHNA, SB 13 (Wieckowski) authorizes a local agency to count accessory dwelling units (ADUs) for the purpose of identifying adequate sites for its housing element, among other ADU provisions and awaits action by the Governor.</p> <p>MTC and ABAG also supported SB 5 (Beall), awaiting action by the Governor, which enables local jurisdictions to use a portion of their own county’s local property taxes (based on their county’s Educational Revenue Augmentation Fund contribution) to invest in affordable housing, infrastructure and sea level rise mitigation. Unfortunately, the other significant ABAG and MTC-supported housing funding bills – AB 11 (Chiu), which would revive a reformed version of redevelopment, and ACA 1 (Aguiar-Curry), which would reduce to 55 percent the voter approval threshold for housing and transportation infrastructure measures – are on hold until January.</p>
<p>2. Transportation Funding</p>	<p>A. Defend and expand state investment in transportation</p>	<p>With SB 1 funds intact due to voter rejection of Proposition 6, staff focused our legislative efforts related to transportation funding on expanding the predictability of statewide resources for the Bay Area. SB 277 (Beall)—which MTC supported and awaits action by the Governor—revises the Local Partnership Program to expand the portion of funds that flow via formula, increasing Bay Area formula funding by approximately \$19 million/year (80 percent). Importantly, we also succeeded at maintaining the existing transportation and housing programs funded by Cap and Trade and securing additional discretionary funding for low carbon transportation incentives, including zero-emission bus incentives.</p>
	<p>B. Transportation Development Act (TDA) Performance Standards Review</p>	<p>Staff participated in a subcommittee convened by the California Transit Association to evaluate the appropriateness of California’s current TDA (Transportation Development Act) fare-box requirements in an era of disruptive on-demand transportation options that are contributing to declining transit ridership nationwide. The subcommittee is continuing to refine a TDA reform recommendation for consideration in the 2020 legislative session.</p>

Issue	Goal	Outcome
Transportation Funding, cont.	C. Active Transportation Program Reform	MTC-sponsored legislation (SB 152 (Beall, 2019)) to streamline the administration of the Active Transportation Program (ATP) and suballocate a larger share of the funds to regional transportation planning agencies did not advance this year. Although a number of Bay Area organizations endorsed the bill, including the Napa County Bicycle Coalition, the City of Oakland, the City-County Association of Governments of San Mateo County, the Napa Valley Transportation Authority, Solano Transportation Authority as well as Southern California partners, the bill encountered strong opposition by staff and members of the California Transportation Commission and a number of advocacy organizations opposed to reducing the state’s authority over the program. It was ultimately held in the Senate Appropriations Committee.
	D. Capturing Sales Tax from Internet Sales	AB 147 (Burke)—supported by MTC and ABAG—was enacted early in the 2019 legislative session. The bill conformed state sales and use tax law to the 2018 Supreme Court <i>South Dakota v. Wayfair</i> ruling that certain internet retailers can be required to collect sales taxes, even in states where they have no physical presence. Expanding the state sales tax base holds promise to increase transportation funding from local-option sales taxes and TDA funding across the region, as well as local county and city resources.
	E. Transportation Options Seniors/Persons with Disabilities	The Legislature approved AB 970 (Salas), which awaits action by the Governor, and authorizes a new Transportation for Medical Services grant program for nonemergency medical transportation (NEMT) for seniors and persons with disabilities with the goal of reducing greenhouse gas emissions. Notably, funding for the program is subject to inclusion in a future budget. MTC identified this bill as an opportunity to directly support implementation of MTC’s 2018 Coordinated Public Transit Human Services Transportation Plan. Though our amendment requests were not ultimately incorporated into the bill, the final version does reflect our recommendation to avoid creating an entirely new grant program within the California Department of Aging—an agency with no experience administering statewide transportation programs. Instead, the program would be run as a new element of the existing Clean Mobility Options program administered by the California Air Resources Board.
	F. Disadvantaged Communities	Staff engaged in a number of efforts this year related to our ongoing concern that the state’s narrow definition of disadvantaged communities (DACs) unduly limits the Bay Area’s eligibility to compete for Cap and Trade funds and other funding programs. Unfortunately, AB 352 (Garcia, E.), which would have significantly expanded the number of communities in the Bay Area and throughout the state that could compete for Transformative Climate Communities grants, did not advance through the legislative process. We were pleased that AB 970, described above, provides for both state-defined disadvantaged communities <i>and</i> low-income communities in the authorized grant program.

Issue	Goal	Outcome
3. Project Delivery	Speed up the design and construction of transportation projects	MTC and ABAG this year supported a number of bills to expedite transportation project delivery, including AB 252 (Daly), which indefinitely extends the ability for California to assume responsibility for federal environmental review under the National Environmental Policy Act and was enacted in July. In addition, SB 137 (Dodd), awaiting action by the Governor, will help Bay Area transportation agencies deliver certain local bridge or safety projects faster by newly allowing local agencies in metropolitan areas to swap federal funds for state funds, subject to Caltrans' approval, on projects that are not otherwise subject to the more cumbersome and time-consuming federal requirements.
4. Climate Change & Resilience	A. Accelerate the transition to a low carbon future	See the Cap and Trade funding update in item 2A above. Additionally, AB 784 (Mullin)—which MTC supported and awaits action by the Governor—provides additional funding via a zero-emission bus (ZEB) state sales tax exemption to help transit operators meet the state's ambitious ZEB target. We estimate the bill will save transit operators between \$30,000 to \$50,000 per ZEB bus purchase.
	B. Improve the Bay Area's resilience to various hazards	ABAG supported three bills this year aimed at improving the resiliency of vulnerable buildings in preparation for a major seismic event. AB 252 (Hertzberg) would have provided approximately \$70-\$100 million per year in annual funding for the state's Brace and Bolt residential seismic retrofit program but was held in the Senate Appropriations Committee as a two-year bill. AB 393 (Nazarian) and AB 429 (Nazarian) were more modest earthquake safety bills aimed at strengthening building code standards and developing an inventory of seismically-vulnerable buildings. Unfortunately, neither of these bills made it to the Governor's desk. Another bill aimed at wildfire hazard planning, SB 182 (Jackson), also ultimately failed to make it through the legislative process. On a positive note, the 2019-20 State Budget invests nearly \$1 billion to build resiliency against wildfires, improve emergency preparedness and response and tackle recovery.
	C. SB 375 Update	No legislative activity occurred this year related to amending SB 375 (Steinberg, 2008). However, staff anticipates stakeholder interest in exploring an SB 375 update in the 2020 legislative session, in light of the aggressive new regional greenhouse gas emissions reduction targets set by the California Air Resources Board (CARB) and the recent CARB <i>2018 Progress Report</i> on the bill, which identified state level challenges contributing to the report's conclusion that implementation of the legislation is falling short of expectations with respect to reducing greenhouse gas reductions from changes in land use and travel behavior.

Issue	Goal	Outcome
5. Toll Collection & Enforcement	Technical clean-up to toll statutes related to enforcement and interoperability	Legislation to address this issue made progress this year, but did not reach the Governor’s desk. Specifically, SB 664 (Allen) would clarify current law with respect to handling of personally identifiable information by toll agencies and their subcontractors and more clearly define toll agencies obligations with respect to delivery of toll violation notices. Not surprisingly, given about six class action lawsuits pending statewide, the bill attracted opposition from the Consumer Attorneys of California, whose members include one of the law firms involved in a case against BATA and other toll agencies. Other organizations that opposed the bill include the Western Center on Law & Poverty and the American Civil Liberties Union due to general concerns about toll agency penalties and privacy protections, respectively. Over the fall, staff plans to engage the Bay Area delegation and staff on the importance of tolls to our current and future transportation system and ensure that they are well informed about how we administer toll violations and disputes, as well as our privacy policies with respect to protecting personally identifiable information. We will also resume conversations with Assembly and Senate leadership, committee staff, and members of the relevant committees to help lay the foundation for the bill to reach the finish line next year.
6. HOV Lanes	Improve HOV and Express Lane performance	There were no bills introduced specifically related to this topic in 2019. Staff sought to include provisions expanding the type of technology that could be used for enforcement of occupancy requirements on toll facilities to SB 664 (Allen), referenced above, but encountered opposition to including those changes in that bill since it was focused on clarifying current law.
7. Bus Service	Authorize “bus-on-shoulder”	“Bus-on-shoulder” is a policy that allows buses to use the shoulder of roadways during periods of heavy traffic in order to provide bus riders with a more reliable travel time. No legislation was pursued on this in 2019 and Caltrans has been authorizing bus-on-shoulder projects to proceed on a pilot basis. The California Transit Association may still pursue broad authority for “bus on shoulder” in 2020.
8. Active Transportation	Improve roadway safety for all users	The Legislature approved SB 127 (Wiener), currently awaiting action by the Governor, which requires the State Department of Transportation (Caltrans) to ensure access improvements for bicycles, pedestrians and transit users are considered as part of any State Highway Operation and Protection Program (SHOPP) project on state highways that act as local streets and roads. It also requires that after operation, maintenance and rehabilitation of the state highway system, Caltrans prioritize safety projects that reduce fatalities and injuries on the state highway system, specifically including fatalities and severe injuries of bicyclists, pedestrians and transit users on the state highway system.

9. Shared Mobility	Support policies that enable technological innovations to improve mobility, while protecting the public’s interest	The most high-profile shared mobility bill this year—AB 1112 (Friedman), which would have created new rules related to deployment of shared bicycles and scooters—is on hold until next January. AB 1142 (Friedman), which MTC supported, would have required transportation network companies (TNCs) to share anonymized data with regional transportation planning agencies so that we can effectively plan for the impacts on TNCs on our transportation networks. Though AB 1142 did not reach the Governor’s desk, staff has pursued regulatory opportunities to engage on the topic, including by becoming a formal party to the California Public Utilities Commission’s (CPUC) ongoing TNC regulatory proceedings related to data sharing. MTC also engaged on a related ongoing proceeding aimed at improving TNC accessibility for riders who require wheelchairs.
10. Connected and Autonomous Vehicles	Monitor and engage in legislation and regulations to facilitate deployment of connected vehicles and autonomous vehicles	SB 336 (Dodd), the most significant bill on this topic, is on hold until next January, having been designated a “two-year bill.” SB 336 would require, until January 1, 2025, that transit operators ensure that fully automated transit vehicles be staffed by at least one employee while the vehicle is in service. Numerous stakeholders, including the California Transit Administration, raised concerns that the bill could unduly inhibit innovation in an inherently risk-averse industry by predetermining staffing and training requirements. Likewise, TNC’s were concerned that the bill would limit their automation efforts. Of note, the California Department of Motor Vehicles has yet to open a proceeding to specifically allow the testing or use of autonomous <i>transit vehicles</i> , including buses and paratransit vehicles, on public streets.

FEDERAL

Issue	Goal	Outcome
1. FAST Act Reauthorization	Engage in national deliberations prioritizing the funding and policy framework for the next surface transportation act	<p>MTC this year worked directly with Congressional committees, our Bay Area delegation and with our local, state and national partners to advocate for a long-term transportation authorization framework that builds on the progress made in the Fixing America’s Surface Transportation (FAST) Act as follows:</p> <ol style="list-style-type: none"> 1) Raise new revenues and sustainably grow existing surface transportation programs; 2) Within the FAST Act framework, grow federal support for transit and regional mobility solutions, update transit programs to reward Bay Area best practices, and expedite project delivery without harming the environment; and 3) Establish the federal government as a strong partner in state and regional efforts to make transportation networks responsive to transformative technologies and the changing climate. <p>We are pleased that the Senate’s highway reauthorization proposal—America’s Transportation Infrastructure Act of 2019 (ATIA)—which was released this summer as the first step in the FAST Act reauthorization, includes many of the recommendations described above. Importantly, the proposal grows the existing FAST Act programs and, as advocated by MTC, includes a new focus on climate change, explicitly making resiliency activities eligible within core highway programs and creating new programs for improving resiliency and reducing carbon emissions in major metropolitan areas.</p> <p>Despite this initial step, there is still <i>much more</i> work to be done on the FAST Act reauthorization. We anticipate that this item will be front and center in our 2020 federal advocacy program.</p>
2. Infrastructure Initiative	Increase federal transportation and housing investment in metropolitan regions under any new infrastructure funding initiative	Congress did not take up an infrastructure initiative in 2019. As described in the item above, the focus has shifted to the FAST Act reauthorization.

Issue	Goal	Outcome
3. Transportation and Housing Appropriations	A. Defend fiscal year (FY) 2019 and FY 2020 transportation appropriations	In spite of the month-long 2018-2019 government shutdown, Congress ultimately delivered on its promise of providing FY 2019 funding increases to federal highway and transit programs, some of which were funded <i>above</i> FAST Act-authorized levels. Staff worked with our Congressional delegation to maximize Bay Area funding and flexibility in these appropriations. As of the writing of this memo, Congress has not yet approved a FY 2020 transportation funding bill, though both the House and Senate funding proposals would again augment highway and transit programs in a way that would benefit the Bay Area. Staff is continuing to coordinate with our Congressional delegation on this issue.
	B. Advocate for Capital Investment Grant funding for Resolution 3434/ <i>Plan Bay Area 2040</i> Projects	Caltrain in FY 2019 received \$100 million in federal appropriations, consistent with the full funding grant agreements (FFGAs) approved for the Peninsula Corridor Electrification project, as advocated for by MTC. Both House and Senate FY 2020 funding proposals would fully fund the project. Additionally, BART to Silicon Valley: Phase 2 and the Transbay Corridor Core Capacity project—both priorities for the Bay Area’s next generation of transit expansion projects—received funding commitments from the Federal Transit Administration, though both are still awaiting a signed FFGA.
	C. Support robust FY 2019 and FY 2020 housing appropriations	Congress in FY 2019 rejected the President’s proposal to significantly reduce federal support for affordable housing funds and programs, including Section 8 housing vouchers, the HOME Investment Partnership Program and the Community Development Block Grant Program. Both the House and Senate proposals for FY 2020 housing appropriations maintain support for these programs.
4. Connected Vehicles and Autonomous Vehicles (CV/AV)	Monitor and engage in legislation and regulations to facilitate CV/AV deployment	No major legislative or regulatory action occurred in 2019 on this issue. The Administration remained in “information-gathering” mode while Congress focused on drafting legislation related to CV/AV deployment. In partnership with Bay Area, state, and national partners, staff continued to advocate for strong federal vehicle safety standards while also preserving the ability of state and local agencies to maintain authority over the <i>operation</i> of vehicles on highways and local roads, regardless of whether they are driven autonomously or manually.
5. Climate Change and Resiliency	Strengthen federal partnership to support resiliency and climate change preparedness	See Issue 1 (FAST Act Reauthorization) for an update.