



NAPA VALLEY TRANSPORTATION AUTHORITY Board Agenda Letter

TO: NVRTA Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Kate Miller, Executive Director
(707) 259-8634 / Email: kmiller@nvta.ca.gov
SUBJECT: 2019 Federal and State Legislative Advocacy Program and Project
Priorities and Legislative and State Bill Matrix Update

RECOMMENDATION

That the Napa Valley Transportation Authority (NVRTA) Board (1) approve the 2019 Federal and State Legislative Advocacy Programs and Project Priorities (Attachment 1), and (2) receive the State Legislative update from Steve Wallauch, Platinum Advisors.

COMMITTEE RECOMMENDATION

None

EXECUTIVE SUMMARY

Attachment 1 contains the proposed 2019 Federal and State Legislative Program and Project Priorities. The Program and Priorities is a strategy to help focus agency efforts in order to meet agency key goals and objectives. A summary of the revisions from the 2019 Federal and State Legislative Agenda and Project Priorities are included below.

Attachment 2 is the State Legislative Update from Platinum Associates. Attachment 3 is the State Bill Matrix and includes several bills released as part of the extraordinary session with staff recommendations requesting Board action.

PROCEDURAL REQUIREMENTS

1. Staff Report
2. Public Comments
3. Motion, Second, Discussion and Vote

FISCAL IMPACT

Is there a Fiscal Impact? No.

CEQA REQUIREMENTS

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (California Environmental Quality Act (CEQA) Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Each year the NVTA Board approves the Federal and State Legislative Programs and Project Priorities to establish direction and to authorize staff to advocate for various policy principals and projects.

Attachment 1 is the proposed 2019 Programs and Projects list showing the minor changes from 2018.

Included in the changes are emphasizing and redefining funding programs that better meet current needs of the agency. Specifically, on the federal program, Federal Transit Administration (FTA) New Starts has been redefined for rural areas since this has been a greater focus by the federal government in recent years. Staff has also emphasized the FTA Bus and Bus Facilities program (FTA §5339 C) as this is a key program for funding the Vine Maintenance Facility. Staff has also included reference to the federal reauthorization bill as the current bill expires in 2020. In addition, an emphasis on transportation technology funding and programs has also been included. Finally, at the request of Director Ramos, staff has also included language advocating for reciprocity language to align the statute of limitations of CEQA and NEPA to take advantage of reciprocity language included in the Fixing America's Surface Transportation (FAST) Act that would help streamline project delivery of highway and transit projects.

Language in the state program has been updated to reflect current program names and to eliminate regulatory reform that is no longer relevant.

Project priorities have been updated to reflect current direction and projects being developed on State Route (SR) 29 and to reflect newly adopted plans. Additional projects have also been added, such as electrification of the Vine bus fleet, countywide electric vehicle network, and safe routes to transit and schools.

Attachments 2 is the State Legislative Update and Attachment 3 is the State Bill Matrix updated to reflect bills that have been signed into law, vetoed, or are now two year bills.

SUPPORTING DOCUMENTS

Attachments: (1) 2019 Federal and State Legislative Advocacy Programs and Project
 Priorities
 (2) October 31, 2018 State Legislative Update (Platinum Advisors)
 (3) October 31, 2018 State Bill Matrix (Platinum Advisors)

2018-2019 Federal and State Legislative Advocacy Program and Project Priorities

Federal Legislative Advocacy Program

- Revenues
 - Support efforts to stabilize and increase revenues that flow to the Highway Trust Fund.
 - Support efforts to expand competitive grant programs.
 - Advocate for grant programs that fund clean fuel technologies, including the FTA Low and No Emission Vehicle Deployment program.
 - Advocate for increased appropriations for the New Starts and Small Starts program, as well as establishing a robust set aside for Small Starts projects [in rural areas](#).
 - Advocate for increased appropriations for DOT's Transportation Investments Generating Economic Recovery (TIGER) program and preserve eligibility for bicycle and pedestrian projects.
 - [Advocate for increased appropriations for Federal Transit Administration \(FTA\) Bus and Bus Facilities funds \(FTA §5339 C\).](#)
 - Support efforts that ensure continued protection of transportation programs subject to across-the-board cuts through budget sequestration.
 - Respond to Federal Transit Administration's and Federal Highway Administration's implementation of Fixing America's Surface Transportation Act (FAST), as rulemakings, circulars, and other administrative actions are issued.
 - [Seek modifying language in the FAST Act to address the National Environmental Policy Act \(NEPA\) reciprocity language to align the statute of limitation to file a claim to be consistent with the 30-day statute of limitation in the California Environmental Quality Act \(CEQA\), or at a minimum, to align it with existing NEPA statute of limitations for highway and transit projects which is set a 150 days.](#)
 - [Support efforts that increase funding and existing FAST Act programs in anticipation of the 2020 reauthorization of the transportation authorization bill.](#)
 - Support efforts to educate the next Administration on the need for increased investment in transportation infrastructure.
 - [Increase funding for advanced/emerging technologies pilot and demonstration programs.](#)

State Legislative Advocacy Program

- Revenues
 - Work closely with state legislators and agencies to maximize AB 32 Cap and Trade revenues for transportation projects, specifically expanding eligibility to include travel demand management program and traffic congestion relief, grow the transit program, and identify measures to advance funds.
 - Support efforts that would support investments in transit infrastructure projects eligible for Cap & Trade offsets.
 - Support efforts to lower the 2/3rds voting threshold for local transportation sales tax measures.
 - Support efforts to increase that identify longer term and permanent solutions to address transportation infrastructure funding shortfalls, including identifying priorities for the 40% unallocated Cap & Trade funds for public transit and other transportation programs that reduce emissions.
 - Support funding innovations such as user-based fees that stabilize and or generate new revenues for transportation such as voluntary mileage based program (that might arise from SB 1077 or other).
 - Protect transportation funds from strategies that allow diversion of transportation revenues being diverted for general fund other purposes.
 - Protect existing formulas that maximize local and regional control of state transportation funds.
 - Support efforts to identify new revenues and mechanisms to implement redevelopment projects and support priority development areas.
 -
 - Identify and advocate for measures that would preserve and grow local streets and road revenues.
 - Support efforts that encourage and fund affordable housing programs that honor existing urban growth boundaries, preserving agricultural lands and open space areas.
- Project Delivery
 - Support efforts to streamline project delivery requirements and reduce costs for delivering projects, including.
 - Support efforts that streamline California Environmental Quality Act CEQA processes.
 - Support efforts to expand local and regional authority to enter into public-private partnerships for transportation improvement projects.
- Environment
 - Support regulatory and legislative efforts to encourage van pools, transit use, and alternative commute options.
 - Support programs that assist employers in meeting the SB 1339 requirements.
- Congestion Relief
 - Support efforts to establish and maintain HOV lanes on State Highways.
 - Support Caltrans efforts to expand traveler information and other solutions that reduce congestion and increase throughput.

- Regulatory Reform
 - ~~Support legislation that allows 3-position bicycle racks on all public transit vehicles.~~
 - Support legislation to exempt public transit vehicles from state and local truck route ordinances.
 - Support efforts that ease compliance for small operators, and provide financial assistance for infrastructure investments and vehicle purchases subsidies associated with ~~revisions~~ to the California Air Resources Board's Innovative Clean Transit Rule~~proposed Advanced Clean Transit Regulations~~.
 - Support Regional Housing Needs Allocation reform that expands the definition of acceptable dwelling units.

Project Priorities

- Improvements to State Route 29 ~~prioritized in the State Route 29 Gateway Corridor Plan~~, including improvements to key intersections such as Soscol Avenue (SR 29/SR121/SR12), ~~and~~ Carneros (SR 221/SR 29/SR12), ~~and~~ Airport (SR 29/SR 12), and improvements on SR 29 in American Canyon between Napa Junction and American Canyon Road.
- Congestion relief projects and sea level rise mitigation on State Route 37
- Projects located in the County's two Priority Development Areas
- Transit Maintenance Facility
- Technology projects that increase transit operating efficiencies and reduce emissions.
- Technology projects that improve highway and local street and road operations.
- Projects included in Plan Bay Area and successor Regional Transportation Plans for Napa's jurisdictions.
- Pedestrian and Bicycle Infrastructure, Wayfinding, and Safety
- Rapid Bus corridor improvements on major corridors including project in NVTAs 2017 2017 Express Bus Plan
- Upgrades to Soscol Gateway Transit Center
- Major Corridor Management, Operations and Control Center Projects
- Vine bus fleet electrification
- Countywide electric vehicle charging network
- Safe and accessible routes and infrastructure to transit and schools



October 31, 2018

TO: Kate Miller, Executive Director
Napa Valley Transportation Authority

FR: Steve Wallaich
Platinum Advisors

RE: Legislative Update

What About Prop 6?: While polling currently indicates defeat for this measure, we will not know for certain until next week. If it fails, then life is good. If it passes, then chaos reigns for the next several months as negotiations, fights, and the political powers that be sort out how available funds are spent and which existing commitments are axed.

Beyond the loss of revenue, what does Prop 6 mean for SB 1? First, Prop 6 does not “repeal” SB 1 or any statute, hence that is why “repeal” is not in the title of Prop 6. The changes made and taxes imposed by SB 1 stay on the books until the revenue provisions in SB 1 are placed on the ballot. To abide by Prop 6, the Legislature does not need to re-enact SB 1, but it does need to pass a measure that places the tax and fee provisions of SB 1 on the 2020 ballot – this may only require a majority vote because the Legislature already approved the taxes with a 2/3 vote. However, it is uncertain if the Legislature will proceed with this plan, which would require gearing-up for another ballot fight in 2020, or go in a new direction.

That new direction is the implementation of a vehicle-miles-traveled fee. This is a funding plan currently being studied by the CTC and appears to be the future revenue mechanism as we transition to zero emission and alternative fueled vehicles. In addition, a strong case can be made that Prop 6 does not cover a VMT fee. Prop 6 is limited to fuel taxes and vehicle registration fees.

Prop 6 Part Two: While polling shows that Prop 6 will (hopefully) be defeated, the proponents of Prop 6 – Carl DeMaio and company – have submitted a new initiative that would mandate how transportation should be funded. This initiative would only be pursued if Prop 6 is approved. This effort is an attempt to illustrate that transportation projects can be funded without a tax increase, but this is a zero sum game that would result in the loss of critical public transit, health, mental health and criminal justice funds.

This initiative is littered with numerous proposals that failed legislatively over the past several years, and includes the following:

- Diverts all tax revenue from motor vehicle fuel sales to be directed to the Citizen's Lock Box for Road Repairs, Maintenance and Improvements (Lock Box). This includes the fuel excise taxes and the sales tax on diesel fuel, which is a critical funding source for public transit and intercity rail. These funds could only be used for capital outlay and maintenance of local streets and state highways.
- Diverts all taxes and fees related to vehicle purchases and licensing to the Lock Box, and limits the use of these funds to local street and highway construction, improvement, maintenance and operations. These funds could also be used for "public mass transit guideway projects," which includes rail and presumably bus rapid transit projects, but nothing else. This diversion would significantly impact county funding for health, mental health, and criminal justice programs.
- Diverts all vehicle related fines and penalties to the Lock Box. This revenue would be limited to funding the enforcement of traffic and vehicle laws.
- Requires all capital outlay work on streets and highways to be performed by a private, non-governmental entity.
- Prohibits the state or local governments from imposing a prevailing wage requirement, or the use of project labor agreements.
- Terminates the High Speed Rail Project.
- Requires the State Auditor to conduct an annual program of transportation project performance and efficiency audits.
- Allocates the revenue in the Lock Box, not including the revenue dedicate to enforcement of vehicle laws, to cities and counties in proportion to the amount of transportation funding a city or county received as of January 1, 2018.
- Cities and counties would be responsible for maintaining and constructing local streets and roads and the portions of state highways located within their jurisdiction.

Split Roll: The Secretary of State announced that an initiative to implement a split roll has qualified for the November 2020 ballot. This initiative would amend the Constitution to scale back the property tax protections in Prop 13 for commercial and industrial properties. Once fully implemented this change would generate \$6 to \$10 billion annually, which would be split between schools and cities, counties, and special districts.

If approved by the voters, this initiative directs the legislature to provide a statute for the phase-in of the reassessment of commercial and industrial property. This proposal would not alter Prop 13 for single family homes, and it exempts agricultural properties and commercial multiunit apartment buildings from the reassessment changes. It also proportionately exempts the housing portion of multi-use buildings. There are also partial exemptions for small businesses.

One final note, the initiative includes language stating that the property tax revenue generated by this change shall not be considered “proceeds of taxes,” and exempts this revenue bump from any appropriations limit. This needs to be confirmed, but stating that this revenue is not proceeds from taxes may also prevent this revenue from being captured by a tax increment finance entity, such as an Infrastructure Financing District and any future reimagined redevelopment agency.

A Fairer Wayfair: The Senate Committee on Governance & Finance and the Assembly Committee on Revenue & Taxation held a joint informational hearing on the U.S. Supreme Court ruling in *South Dakota v Wayfair Inc.* This decision, which was issued last June, reversed decades of precedent. The Court found that online retailers are required to collect and remit sales tax regardless of whether the online retailer has a physical presence in the state where the order is delivered.

South Dakota enacted legislation in 2016 that required remote sellers to collect sales tax, even if the seller did not have a physical presence in the state. The law set a threshold requiring sellers that deliver over \$100,000 of goods or services into the state, or had 200 or more transactions of in-state deliveries. Wayfair challenged this law, and the U.S. Supreme Court ultimately decided that physical presence is the wrong standard for sales tax nexus purposes.

At the informational hearing, Nicolas Maduros, Director at California Department of Tax and Fee Administration (CDTFA) stated that CDTFA has the authority to implement this change by issuing a guidance letter. However, Senator Mike McGuire, chair of the Senate Committee on Governance & Finance, cautioned against moving too fast and without legislative direction.

CDTFA held a stakeholder meeting on October 24th, where they discussed how the Agency plans to implement these changes. However, this meeting resulted in more questions than answers, and likely a lot of confusion. CDTFA is accepting comments until November 7th, before deciding which direction it will take.

At the stakeholder meeting CDTFA stated it would adhere to the thresholds used by North Dakota of delivering over \$100,000 of goods or services into the state, but with a twist. The \$100,000 threshold would be based on sales into a specific taxing jurisdiction, such as a city, not based on a statewide total. In addition, the tax revenue would be allocated to the point of use (i.e. the destination of the shipment) for online retailers with no physical presence in the state, but the state would continue the practice of allocating the tax revenue for retailers with a presence to the point of sale.

To provide clarity and direction to CDTFA, legislation will likely be required to implement this change in California. Shortly after the Supreme Court decision in June, the Administration and CDTFA floated a legislative proposal to modernize the state’s sales and use tax collection system. This proposal was not pursued, but will likely be the basis for future legislation. In short, it would require the collection of sales tax on property delivered to California if the retailer has sales in California exceeding \$500,000 annually.

The Board of Equalization estimates that use tax revenue lost from remote sellers will reach \$1.7 billion in 2018-19. Of this amount the state portion totals \$811 million and the local portion totals \$879 million. While this amount is a small fraction of total sales and use tax receipts, it is growing at a much faster rate than in state sales and use tax revenue.

This hearing is the first step in addressing how California will implement this change. While it is unclear at this point what direction the CDTFA will take, it is clear that the legislature views this change as one that will require statutory changes. As legislation is developed, it will be critical for local governments to participate in this process, particularly in how this revenue is allocated.



October 31, 2018

Existing Positions

Bills	Subject	Status	Client - Position
<u>AB 1</u> (Frazier D) Transportation funding.	AB 1 was Assemblyman Frazier's renewed effort to address the funding shortfall facing our transportation infrastructure. With that passage of SB1, this bill will likely be used for another issue if it is moved forward.	ASSEMBLY TRANS DEAD	SUPPORT
<u>AB 399</u> (Grayson D) Autonomous vehicles: Contra Costa Transportation Authority: pilot project.	Last year, legislation was enacted to authorize the Contra Costa Transportation Authority to conduct a pilot project testing the use of autonomous vehicles on streets that are open to the public, but located within a private business park. AB 399 extends the sunset date on the authority for the pilot project to operate according to existing law, prior to the requirement to then comply with regulations being developed by the DMV. Currently, this pilot program must comply with the DMV regulations within 180 days of the operative date of the regulations. AB 399 extends this "phase-in" period to 12 months.	ASSEMBLY 2 YEAR DEAD	SUPPORT
<u>AB 1454</u> (Bloom D) Transportation projects: lease agreements.	AB 1454 was amended to remove the language that deletes the sunset date on the authority for Caltrans and regional transportation agencies to enter into public private partnerships. As amended, the bill merely states that it is the intent of the Legislature to reestablish the public-private partnership process. AB 1454 was never set for hearing by the Assembly Transportation Committee.	ASSEMBLY RULES COMMITTEE -- DEAD	SUPPORT

<p><u>AB 1759</u> (McCarty D) Public trust lands: City of Sacramento.</p>	<p>AB 1759 was gutted and amended to deal with a state tides land issue in the City of Sacramento.</p> <p>As introduced the bill would withhold a city's or county's share of local street and road maintenance funds if that city or county fails to meet its minimum housing production goals as certified by the Department of Housing and Community Development.</p>	<p>Signed Into Law Chapter 250, Statutes of 2018</p>	<p>WATCH (prior version)</p>
<p><u>AB 1866</u> (Fong R) Transportation funding.</p>	<p>This new measure makes numerous changes to transportation funding programs. These changes largely reflect the transportation funding proposal pushed by the Assembly Republican Caucus last year. It was never heard by the Assembly Transportation Committee.</p>	<p>ASSEMBLY TRANS DEAD</p>	<p>WATCH</p>
<p><u>AB 1901</u> (Oberholte R) California Environmental Quality Act: exemption: roadway projects.</p>	<p>This bill would extend to January 1, 2023, an existing CEQA exemption for counties or cities with a population of less than 100,000. The existing program provides a limited exemption from CEQA for maintenance projects within the existing right-of-way if specified conditions are met.</p>	<p>SENATE EQ DEAD</p>	<p>SUPPORT</p>
<p><u>AB 2851</u> (Grayson D) Regional transportation plans: traffic signal optimization plans.</p>	<p>AB 2851 was gutted and amended to address the need to reach a compromise on abating lead paint in older homes. An agreement was not reached, and this bill is now considered dead.</p> <p>Previously, the bill would authorize each city within the jurisdiction of the Metropolitan Transportation Commission (MTC) to develop and implement a traffic signal optimization plan. <i>In addition, the bill directed Caltrans to ensure its traffic signals within these cities are adjusted and maintained in accordance with the plan.</i></p>	<p>SENATE FLOOR DEAD</p>	<p>Support & Seek Amendments (prior version)</p>

<p><u>AB 3124</u> <u>(Bloom D)</u> Vehicles: length limitations: buses: bicycle transportation devices.</p>	<p>AB 3124 makes a small change with a big impact. This measure amends existing law to authorize an operator to equip a 60-foot articulated transit bus or trolley with a front-mounted bicycle rack that extends up to 40 inches from the front body of the bus when fully deployed and limits the handlebars of a bicycle that is being transported on such a rack from extending more than 46 inches from the front of the bus.</p>	<p>Signed Into law Chapter 22, Statutes of 2018</p>	<p>SUPPORT</p>
<p><u>AB 3201</u> <u>(Daly D)</u> California Clean Truck, Bus, and Off- Road Vehicle and Equipment Technology Program.</p>	<p>The California Transit Association (CTA) sponsored AB 3201 in an effort to secure a funding stream to transition to zero emission transit buses.</p> <p>AB 3201 as currently drafted would amend the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program (Program) to require CARB to establish a funding program for large-scale deployments that meet current and future regulatory obligations. The bill would also clarify that infrastructure needs are also an eligible expense. While the content of AB 3201 will evolve, the intent of this bill is to create a dedicated funding stream to assist transit operators in transitioning to zero emission fleets.</p>	<p>ASSEMBLY APPR Held on Suspense -- DEAD</p>	<p>SUPPORT</p>
<p><u>ACA 4</u> <u>(Aguiar-Curry D)</u> Local government financing: affordable housing and public infrastructure: voter approval.</p>	<p>ACA 4 would generally lower the voter threshold to 55% for imposing the following taxes or issuing debt:</p> <ul style="list-style-type: none"> Creates an additional exception to the 1% limit that would authorize a city or county, to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing. 	<p>ASSEMBLY L. GOV DEAD</p>	<p>SUPPORT</p>

<u>ACA 4</u> (Aguiar-Curry D) (cont.)	<ul style="list-style-type: none"> • Authorizes a local government to impose, extend, or increase a special tax for the purposes of funding the construction, rehabilitation or replacement of public infrastructure or affordable housing. 		
Regional Measure 3/Senate Bill 595 (Beall)	SB 595 authored by Senator Jim Beall was passed by the Legislature and signed into law by Governor Brown in the fall of 2017. The bill authorizes the Bay Area Toll Authority to place Regional Measure 3 on the ballot. At its February 27th meeting, the County Board of Supervisors approved adding Regional Measure 3 to the June 5, 2018 ballot. As approved, Regional Measure 3 allows the Bay Area Toll Authority to increase tolls on the seven (7) state owned bridges, as follows: \$1 January 1, 2019, \$1 January 1, 2022, and \$1 January 1, 2025. Revenues raised will fund transportation projects on the expenditure plan to relieve congestion in the bridge corridors.	June 5, 2018 Statewide Primary Election – Approved by Voters	SUPPORT
<u>SB 760</u> (Wiener D) Bikeways: design guides.	SB 760 was gutted and amended on June 4 th . As amended the bill would prohibit Caltrans from denying a permit solely based on the work being performed pursuant to local plans and specifications if a project is adjacent or near a state highway and does not affect the operation of the state highway.	ASSEMBLY TRANS DEAD	WATCH
<u>SB 827</u> (Wiener D) Planning and zoning: transit-rich housing bonus	SB 827 would authorize a “transit-rich housing project” to be eligible for a “transit-rich housing bonus.” A transit-rich housing project is a housing project that is located within ½ mile of a “major transit stop” or ¼ mile from a “high-quality transit corridor.” If the housing project meets these requirements then it would be exempt from local controls on residential density or floor area ratio, parking restrictions, and some height restrictions.	SENATE T. & H. – FAILED PASSAGE -- DEAD	WATCH

<u>SB 1434</u> <u>(Leyva D)</u> Transportation electrification: electricity rate design.	The CTA sponsored SB 1434 (Leyva). This bill aims to address the volatility with electricity rates when charging battery electric buses. Specifically, SB 1434 directs the CPUC to initiate a new rate making proceeding for the cost of electricity that is used as a fuel. The fluctuation of electricity rates is a key obstacle in scaling up the use battery electric buses.	ASSEMBLY APPR Held on Suspense DEAD	SUPPORT
<u>SCA 2</u> <u>(Newman D)</u> Motor vehicle fees and taxes: restriction on expenditures.	With the passage of ACA 5, SCA 2 was placed on the Inactive File. SCA 2 and ACA 5 are identical and would prospectively prohibit the use of truck weight fees to pay for transportation bonds approved after January 1, 2017. The bill would also expand the protections for Public Transportation Account revenues to also include the 1.75% increase to the diesel fuel sales tax that was enacted as part of the gas tax swap. The ban on borrowing fees and taxes would also apply to any vehicle fees or taxes dedicated to transportation accounts.	SENATE INACTIVE FILE DEAD	SUPPORT
<u>SCA 6</u> <u>(Wiener D)</u> Local transportation measures: special taxes: voter approval.	SCA 6 would allow a local government to impose any special tax with a 55% approval of the voters if the special tax dedicates 100% of the revenues, not including collection and administrative expenses, to transportation programs and projects.	SENATE APPR – SUSPENSE FILE DEAD	SUPPORT