# Four Approaches Proposed for Financing Transportation Infrastructure

After deferring and delaying transportation investments for much of this decade, the Governor and Legislature agreed in 2005 to fully fund Proposition 42 for the first time since its enactment in 2002. Even after this action was taken, the California Transportation Commission was compelled to announce "California's transportation program is in a shambles, the victim of five years of neglect and abuse." Subsequently, the proposed budget for 2006-07 not only contains full funding of Proposition 42, but also proposes to repay some $920 million in prior Proposition 42 loans that were made to the General Fund. Furthermore, there are several constitutional amendments advancing through the legislative process that would further protect Proposition 42 against raids in future budget years.

It is within this context of renewed attention to transportation financing that a trio of bond proposals and a General Fund diversion proposal have been offered in the current legislative session. On January 30 and February 1, the Assembly Transportation Committee held hearings to examine these proposals, identify the issues and questions raised by them, and make recommendations to the conference committee that will be considering them. Following are the findings of the Assembly Transportation Committee emanating from those hearings.

***The Administration's Approach***

The Governor's proposal, embodied in AB 1838 (Oropeza) and SB 1165 (Dutton), is a comprehensive and complex amalgam of initiatives that both provides new funding for transportation and air quality projects and adds statutory authority for the Department of Transportation (Caltrans) and local transportation entities to use nontraditional contracting and project franchise techniques. The proposal envisions three separate voter-approved bond measures -- $6 billion in General Obligation (GO) bonds on the 2006 ballot; $6 billion in GO bonds on the 2008 ballot; and $14 billion in revenue bonds (backed by fuel excise taxes and commercial weight fee receipts) on the 2012 ballot. Additionally, the Governor proposes to grant unlimited authority for Caltrans and local agencies to use design-build contracting and public-private partnerships, while adding to the existing authority for Caltrans' use of design-sequencing contracts. Bond proceeds would be continuously appropriated to Caltrans. Specifically, this proposal:

*Puts a $6 billion GO bond on the 2006 ballot (not specified as to whether June or November).* $1.7 billion would be allocated for performance improvements to the state highway system; $1.3 billion for safety, rehabilitation, and preservation projects on the state highway system; $300 million for corridor mobility projects on the state highway system; $200 million for intelligent transportation systems and other technology-based projects to improve safety and effective capacity of the state's transportation system; $400 million for intercity rail passenger projects; and $100 million for bicycle and pedestrian projects, including park and ride facilities. All of the above projects would be jointly proposed by Business, Transportation and Housing Agency (BT&H) and Caltrans. The projects would be required to be consistent with performance measures adopted by the California

Transportation Commission (CTC). Caltrans and BT&H would also propose the performance measures. Regional agencies could nominate substitute projects to the CTC, but the projects would have to be approved by Caltrans. Fund allocations would be exempt from the existing formula requirements established in law pertaining to regional/interregional funds, the north/south split, and county shares, and funds could be used to support public-private partnerships, including project revenue debt and equity financing. All projects would be required to comply with federal and state engineering design, environmental, and contracting standards and would have to be included in a regional transportation plan.

Additionally, there would be $1 billion for matching grants for port mitigation projects. These projects would be proposed by BT&H and the Environmental Protection Agency (Cal-EPA) and require a one-to-one funding match from other than state funding sources. Finally, $1 billion would be reserved for transportation infrastructure projects (with at least a four-to-one funding match from other than state funding sources) as identified in the Trade Infrastructure and Goods Movement Action Plan and proposed by BT&H and Cal-EPA. Eligible projects are identified as highway access to ports and intermodal facilities; rail access to ports and intermodal facilities; truck corridor highway improvements, including dedicated truck facilities and truck toll facilities; and rail corridor improvements, including grade separation projects. Neither of these two funding categories would allow for substitute projects to be proposed by local or regional agencies.

*Puts a second $6 billion GO bond on the November 4, 2008 ballot.* The 2008 bond proposal eliminates program funding for corridor mobility projects, intelligent transportation systems, and port mitigation projects as provided in the 2006 bond proposal. As with the prior bond, proceeds would be exempt from the north/south split and county share formulas, funds could be used to support public-private partnerships, including project revenue debt and equity financing, and all projects would have to comply with federal and state engineering design, environmental, and contracting standards.

The 2008 bond allocates $3.6 billion for performance improvements to the state highway system; $200 million for safety, rehabilitation, and preservation projects on the state highway system; $100 million for intercity rail passenger projects; $100 million for bicycle and pedestrian projects, including park and ride facilities; and $2 billion for improving the flow of goods and services and enhancing environmental quality, as identified in the Trade Infrastructure and Goods Movement Action Plan (again, with at least a four-to-one funding match from other than state funding sources). Except for the goods movement projects, all projects would be chosen by BT&H and Caltrans, although regional agencies could nominate substitutes, with Caltrans' concurrence.

*Submits a transportation revenue bond to the statewide voters at the November 6, 2012 election.* This bond would be for $14 billion and would be secured by 25 percent of annual gasoline and diesel fuel tax revenues and 25 percent of annual truck weight fees, not to exceed a total of $1.025 billion per year, for a period of 30 years. (The Legislature, by a two-thirds vote, could extend this period by five years.) Should those revenues be insufficient in any given year to cover debt service, the difference would be made up by the General Fund.

The 2012 bond proposal would authorize funds to be expended on performance improvements to the state highway system, including focus routes and regional priorities; safety, rehabilitation, and preservation projects on the state highway system; corridor mobility projects on the state highway system; intelligent transportation systems and other technology-based projects; and transportation infrastructure projects that serve the overall objectives of improving the flow of goods and services and enhancing environmental quality. Caltrans would also be authorized to use bond proceeds to reimburse the State Highway Account or Public Transportation Account for qualified project expenditures that have been advanced. Bond expenditures would be exempt from the existing formula requirements pertaining to regional/interregional funds, the north/south split, and county shares. Revenues from the 2012 bond would be eligible for use on research, planning, maintenance and operation, as well as construction, of transportation facilities. The bond proposal would also authorize reimbursement to entities that have advanced funds for delivering projects earlier than scheduled.

*Establishes an alternative contracting procedure for the design and construction of transportation projects*. The proposal establishes procedures under which Caltrans or local transportation entities could utilize the design-build method of project delivery procurement for transportation projects. Projects chosen for the design-build contracting procedure would be required to comply with all existing requirements under the State Transportation Improvement Program for project development and funding.

*Establishes authority and procedures for Caltrans and local and regional transportation entities to enter into lease agreements with the private sector to jointly develop transportation projects*. The proposal would allow Caltrans and other transportation agencies to enter into lease agreements with public or private entities for the development of transportation projects. The developer would be authorized to collect tolls and user fees for the use of the transportation facilities for up to 80 percent of the useful life of the project, or 99 years, whichever is less. At the end of the term the facility would completely revert to the transportation agency, which would then be authorized to continue to collect tolls or fees at its option. Caltrans and regional and local transportation agencies would also be authorized to develop and operate exclusive or preferential lanes as toll and user fee facilities and to enter into agreements with the private sector to develop and operate these facilities.

*Extends the sunset date for the existing authorization of Caltrans to utilize the design-sequencing alternative method for contracting from January 1, 2010 to January 1, 2012, and authorizes an additional four projects to be selected by Caltrans, as a part of the phase two pilot design-sequencing alternative method for contracting*. The proposal establishes terms under which the four projects are to be selected along with a sunset date of January 1, 2012. It requires Caltrans to prepare a status report no later than July 1, 2007 and every year thereafter, under the phase two pilot program on its contracting methods, procedures, costs, and delivery schedules.

***Speaker Nuñez's Approach***

AB 1783 would enact the *California Infrastructure Improvement, Smart Growth, Economic Reinvestment, and Emergency Preparedness Financing Act of 2006*. The bill states the intent of the Legislature to provide for the financing of state and local government infrastructure through various funding sources, including bonds, fees, assessments, and other sources. Funds would be used for repayment of Proposition 42 transfers from the State Highway Account; goods movement and community and environmental mitigation; improvements to Route 99; public transit; transit and port security; air quality; Transportation Partnership Account and regional planning partnerships. Financing would also be available for flood control, safe water systems, environmental improvement, housing, hospital seismic safety repair, and emergency public safety communications equipment, among others.

The bill states the intent of the Legislature to ensure: that any state infrastructure financing plan is consistent with a long-term plan for the state's growth and infrastructure needs; that there is a specific plan for sale and liquidation of existing bonds for state infrastructure that have already been approved; and that any proposal for new state funding shall include a specific financing plan and a full assessment of the long-term costs to the General Fund.

***Senator Perata's Approach***

SB 1024 (Perata) authorizes a GO bond for capital improvements throughout the state, including transportation facilities, clean air, high speed rail, urban infill development, environmental enhancement, goods movement, levee protection, and the repayment of Proposition 42 loans, upon voter approval at a statewide general election.

Proceeds from the sale of the bond would be allocated for the following purposes:

*The Safe Facilities Account* - Funds from the account would be used for Levees and Local Flood Subvention, Transit Security Program, Grade Separation Projects, Local Bridge Seismic Retrofit Program, and the Port Security Grant Program.

*The Improved Mobility and Clean Air Account* – Funds from the account would be used for Proposition 42 Repayment, Trade Corridor Improvements, State Transportation Improvement Program, State and Local Partnership Program, High-Speed Rail, Port Air Quality Improvement (Carl Moyer Program), and the Environmental Enhancement and Mitigation Program.

*The Affordable Housing and Transit Oriented Development Account* - Affordable Housing Subsidy, Infill Incentives and Planning, and Transit Oriented Development Program.

***The Assembly Republicans' Approach***

ACA 27 (McCarthy) embraces a pay-as-you-go approach that requires that the adopted budget allocates General Fund revenues to fund capital outlay projects of statewide significance and interest, in accordance with the specified schedule. Specifically, the bill:

- Requires General Fund revenues, through the budget process, to fund capital outlay projects of statewide significance as follows:

  - "Pay-as-you-go-approach" which Republicans say will generate more than $35 billion over the next decade.
  - Allocates 1 percent of the total General Fund revenues for 2007-08.
  - An additional 0.5 percent or $750 million, whichever is less, for 2008-09 and beyond.

- Additional funding is granted only if annual Proposition 98 guarantee is met.

- Capital outlay is defined as State Transportation Improvement Program, water, or California State University and University of California projects.

- Avoids additional debt and protects Proposition 98 but continuously escalates earmarked funding at the expense of other General Fund priorities. (Using basic assumptions, using this bill's specified formula, within 25 years, a significant percentage of the General Fund (ranging from five to over seven percent) would have to be automatically earmarked for infrastructure purposes at the expense of other discretionary funding, such as health services.)