

Date of Hearing: April 24, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 179 (Cervantes) – As Amended April 20, 2017

**REVISED**

**SUBJECT:** California Transportation Commission

**SUMMARY:** Requires 1 of the 11 voting members of the California Transportation Commission (CTC) to have prescribed experience. Specifically, **this bill:**

- 1) Provides that, of the 11 voting members of CTC, 1 member must have must have experience working directly with communities within California that are most significantly burdened by, and vulnerable to, high levels of pollution, including communities with racially and ethnically diverse populations or low-income populations.
- 2) Directs CTC and the State Air Resources Board (ARB) to hold at least two joint meetings per calendar year to coordinate their implementation of transportation policies.

**EXISTING LAW:**

- 1) Directs CTC to advise and assist the Secretary of Transportation and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.
- 2) Establishes CTC with 13 members, appointed as follows:
  - a) Nine members appointed by the Governor with the advice and consent of the Senate;
  - b) One member appointed by the Speaker of the Assembly;
  - c) One member appointed by the Senate Rules Committee; and,
  - d) Two ex-officio, non-voting members appointed from the State Senate and Assembly, usually the respective chairs of the transportation policy committee in each house.
- 3) Requires that no CTC member simultaneously hold an elected public office or serve on any local or regional public board or commission with business before the commission.
- 4) Provides that, other than ex-officio members, CTC members hold office for terms of four years.
- 5) Requires, in appointing members of CTC, that the Governor make every effort to assure that there is a geographic balance of representation, with members from northern and southern areas and from the urban and rural areas of the state.
- 6) Requires CTC to include in regional transportation plan guidelines a summary of policies, practices, or projects that have been employed by metropolitan planning organizations to promote health and health equity.

**FISCAL EFFECT:** Unknown

**COMMENTS:** The Legislature originally created the CTC in 1978 as a result of concerns that the state lacked a single, unified transportation policy. The 13-member commission is responsible for programming and allocating of funds for the construction of highway, passenger rail, active transportation, aeronautics, and transit improvements throughout California. CTC also advises and assists the Secretary of the California State Transportation Agency and the Legislature in formulating and evaluating state policies and plans for California's transportation programs.

According to the author, CTC is a "highly consequential body with the discretion to make important policy decisions on transportation issues affecting Californians at the state, regional, and local level." The author asserts that the "identities of the commissioners are pivotal not only for technical backgrounds, but for their ability to sympathize with our state's most disadvantaged communities." In support of the need to change the makeup of CTC commissioners, the author offers the following evidence:

- 1) There are no technical requirements for the appointment of CTC commissioners, unlike appointments made to the Coastal Commission, ARB, and the Strategic Growth Council, despite the fact that CTC is responsible for developing and adopting guidelines for the following programs and plans:
  - a) State Highway and Operations Program;
  - b) Active Transportation Program;
  - c) State Transportation Improvement Program (STIP);
  - d) Regional Transportation Plan; and,
  - e) California Transportation Plan.
- 2) Reportedly, some commissioners expressed concern that the current level of funding going to disadvantaged communities is too high.
- 3) Some commissioners reportedly made sarcastic comments about the need for the Active Transportation Program.
- 4) The CTC annual report to the Legislature is disproportionately focused on roads and highways, at the expense of other forms of transportation.

The author asserts, "State transportation policy is not merely a study of streets and roads—it must also include other forms of transportation, such as mass transit, bicycling, or walking. The effects of transportation on other areas of public policy such as public health or climate change should also be considered. In addition, under existing law, there is no statutory guarantee that commissioners will give voice to the concerns of our disadvantaged communities, or the world of transportation that exists beyond roads and highways."

Writing in support of this bill, the California Bicycle Coalition states, "the current membership of the CTC does not reflect the diverse needs of the users of California's transportation system. In our advocacy experience the CTC has struggled to update transportation program guidance to keep pace with our ambitious climate laws and equity goals, and address the significant negative impacts on low-income communities of color that are created by our transportation system. These shortcomings are symptomatic of a need for reform at the CTC."

Writing in opposition to this bill, the Valley Industry and Commerce Association states, "[AB 179] would require commissioners to primarily represent the special interests rather than the interest of their constituents: the people of California. Environmental issues are important and relevant to the development of transportation policy, as is the concern for safeguarding historically marginalized communities. The makeup of the CTC, however, is not the appropriate medium through which to address these issues... Furthermore, we trust in the discretion of our popularly elected Governor and Legislature to appoint and approve candidates whom they deem capable of executing the duties of the CTC."

*Committee concerns:*

- 1) This bill sets forth unclear expectations regarding the role of the CTC. The author and advocates suggest that CTC has failed to appropriately reflect prevailing state policies, as evidenced in its adoption of the STIP. For example, the author suggests "In 2016, 84% of the Commission's STIP guidelines were for road and highway expansion, often with little obvious benefit for disadvantaged communities. Many of them have the potential to increase both greenhouse gas emissions and air pollution."

While it is accurate that CTC adopts the final STIP (the biennial five-year plan adopted by CTC for future allocations of certain state transportation funds for state highway improvements, intercity rail, and regional highway and transit improvements), its role in the adoption is limited, by statute.

The STIP is made of up two parts: the regional transportation improvement program (RTIP) prepared by regional transportation authorities, which represents 75% of the funding available to the STIP; and the interregional transportation improvement program (ITIP), developed by the California Department of Transportation (Caltrans), which represents 25% of the funding available to the STIP.

Projects submitted by regions in their RTIPs, must be derived from adopted Regional Transportation Plans (RTPs). RTPs, are prepared by regional agencies to identify a 20-year vision for transportation priorities and investments. RTPs in major metropolitan areas must include sustainable communities strategies, developed to ensure regions meet greenhouse gas emission reduction targets established by ARB. Sustainable Community Strategies (SCSs) contain land use, housing, and transportation strategies that, if implemented, would allow the region to meet its greenhouse gas emission reduction targets. ARB reviews SCSs adopted by regions to confirm and accept the region's determination that the SCS, if implemented, would meet the regional greenhouse gas emission reduction targets. Existing law generally directs CTC to either adopt the entire RTIP as submitted or reject the entire RTIP. CTC cannot choose or reject individual projects listed in the RTIP for funding. (CTC has discretion, albeit limited, with regard to projects that exceed a county's minimum guarantee funding

level. CTC can affect project selection for projects above the minimum guarantee, but projects still have to have been identified in the RTP.)

With regard to the ITIP, existing law is very specific as to what it is to include. It prescribes that the ITIP has two parts:

- a) The first, funded from up to 10% of new STIP funding, is nominated solely by Caltrans in the ITIP. It is subject to a formula referred to as the north/south split that requires 40% of funds be directed to northern California counties and 60% directed to southern California counties. The projects may include state highway, intercity passenger rail, mass transit guideway, or grade separation projects;
- b) The second part, funded from at least 15% of new STIP funding, is not subject to the north/south split. It is limited to intercity rail projects (including Amtrak feeder bus, interregional commuter rail and grade separation projects) and to improvements outside urbanized areas on interregional road system routes (which are specified in statute). At least 15% of the 15% (or at least 2.25% of new STIP funding) must be programmed for intercity rail projects, including interregional commuter rail and grade separation projects.

Existing law requires that the ITIP includes the following types of projects:

- a) Projects to improve state highways;
- b) Projects to improve the intercity passenger rail system; and,
- c) Projects to improve interregional movement of people, vehicles, and goods.

Although the CTC is responsible for developing guidelines to guide development of RTP, RTIPS, and ITIPs, its policies must, and do, reflect current law, including executive orders proclaimed by the Governor.

This lengthy explanation of the STIP process is to illustrate what seems to be a misconception as to the role of the CTC in adopting the STIP. The Legislature gives CTC very specific parameters within which to develop STIP guidelines and to adopt the STIP. CTC does not itself develop projects. It must approve (or reject entirely) RTIPs and ITIPs submitted to it. Consequently, prescribing a specific makeup of the commissioners would likely not render substantially differing outcomes, assuming, that is, that CTC stays within the statutorily prescribed boundaries set forth by the Legislature

- 2) Frustration with current transportation planning, programming and investments is misplaced. As illustrated above, existing law weighs in heavily to direct expected outcomes in transportation planning and programming, leaving CTC with minimal ability to substantially affect an alternative outcome even if so chose. Furthermore, *all* of the current CTC commissioners appointed by the Governor have been appointed Governor Brown. If advocates are unhappy with CTC outcomes, their efforts would be more appropriately directed either to the Legislature, to adopt laws more in line with the advocates' desired outcomes, or to the Governor, who has unrestricted authority to appoint CTC commissioners, other than the commissioners must represent the state geographically.

*Related legislation:* AB 174 (Bigelow) would require at least one voting member of CTC to reside in a rural county with a population of less than 100,000 individuals. AB 174 is scheduled to be heard by this committee on April 24, 2017.

*Previous legislation:* AB 1982 (Bloom) of 2016 would have added two members representing disadvantaged communities to CTC. AB 1982 failed passage in this committee.

AB 2382 (Lopez) of 2016 would have required that at least one member of the California High-Speed Rail Authority Board appointed by the Governor be a person who is from a disadvantaged community. AB 2382 failed passage in this committee.

AB 1288 (Atkins), Chapter 586, Statutes of 2015, added two additional legislative appointees to the ARB with expertise in environmental justice.

AB 1290 (John A. Pérez) of 2013 would have modified the composition of the CTC and imposed new duties relative to assessing progress in implementing sustainable communities strategies. AB 1290 was vetoed by the Governor on the grounds that the Governor's Reorganization Plan, which had recently gone into effect, would satisfy the author's objectives.

AB 441 (Monning), Chapter 365, Statutes of 2012, requires CTC to attach to its guidelines for preparing regional transportation plans a summary of policies, practices, or projects that promote health that metropolitan planning organizations can use in regional transportation plans.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

350 Bay Area  
American Lung Association of California  
Asian Pacific Environmental Network  
Bike Coalition of San Diego County  
Breathe California  
California Environmental Justice Alliance  
California Bicycle Coalition  
California Pan-Ethnic Health Network  
California Walks  
Catholic Charities Diocese of Stockton  
Center for Climate Change & Health  
Center for Community Action and Environmental Justice  
ChangeLab Solutions  
Climate Plan  
Climate Resolve  
Coalition for Clean Air  
Leadership Counsel for Justice & Accountability  
Los Angeles County Bicycle Coalition  
Move LA  
Multicultural Communities for Mobility  
Physicians for Social Responsibility Los Angeles

PolicyLink  
Public Advocates  
TransForm  
Trust for Public Land  
Safe Routes to School National Partnership  
Sunflower Alliance

**Opposition**

California Association of Councils of Governments  
California Conference of Carpenters  
California Delivery Association  
Orange County Transportation Authority  
Rural County Representatives of California  
Self-Help Counties Coalition  
Valley Industry and Commerce Association

**Analysis Prepared by:** Janet Dawson / TRANS. /