

Date of Hearing: August 10, 2020

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1291 (Committee on Transportation) – As Amended April 3, 2020

**SENATE VOTE:** 39-0

**SUBJECT:** Federal Statewide Transportation Improvement Program: submissions

**SUMMARY:** Waives the 2020 requirement that a Metropolitan Planning Organization (MPO) submit a Federal Transportation Improvement Program (FTIP) to the Department of Transportation (Caltrans). Specifically, **this bill:**

- 1) Provides that an MPO or regional transportation planning agency (RTPA) is not required to submit an FTIP to Caltrans for 2020.
- 2) Provides that Caltrans is not required to submit a Federal Statewide Transportation Improvement Program (FSTIP) to the United States Secretary of Transportation for 2020.
- 3) Contains an urgency clause and describes the urgency by stating that many MPOs and transportation planning agencies are unable to comply with existing law, which requires those entities to submit Federal Transportation Improvement Programs (FTIP) to Caltrans for 2020.

**EXISTING LAW:**

*Existing state law:*

- 1) Requires MPOs and RTPAs to submit an FTIP to Caltrans for incorporation into the FSTIP no later than October 1 of each even-numbered year.
- 2) Requires Caltrans to prepare, in coordination with the metropolitan planning agencies, an FSTIP and submit it to the U.S. Secretary of Transportation by December 1 of each even-numbered year.
- 3) Requires each MPO and transportation planning agency to select and program projects in conformance with federal law.

*Existing federal law:*

- 1) Requires, every four years, an MPO to develop an FTIP of upcoming transportation projects covering a period of at least four years.
- 2) Requires each state to develop an FSTIP and update it at least once every four years.
- 3) Establishes the Federal Clean Air Act (FCAA), which through its implementing regulations:
  - a) Establishes National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, and
  - b) Designates air basins that do not achieve NAAQS as non-attainment.

- 4) Requires, under FCAA, that in areas experiencing air quality problems, transportation planning, including FTIPs, must be consistent with air quality goals as determined through the transportation conformity process.

**FISCAL EFFECT:** Unknown

**COMMENTS:** FTIPs are comprehensive regional spending plans consisting of proposed plans for major transportation projects over multiple years. MPOs and RTPAs prepare and manage FTIPs for their region. Federal law requires regions to adopt a new FTIP every four years, although more stringent state law requires regions to update their FTIP every two years. Federal law also requires the Federal Highway Administration (FHWA) and the Federal Transit Administration to approve the FTIP. FTIPs are required to include all federally funded projects, and regions also include projects funded by state and local revenues in their FTIPs.

Caltrans is responsible for preparing and managing the FSTIP, a four-year statewide intermodal program of transportation projects that is consistent with the statewide transportation plan and planning processes, the metropolitan plans, and the FTIPs. The FSTIP is prepared by Caltrans in cooperation with MPOs and RTPAs. As with the regional program, federal law requires Caltrans to develop an FSTIP and update it at least once every four years, while state law requires Caltrans to prepare and submit the FSTIP to the U.S. Secretary of Transportation every two years. The next federal deadline is December 1, 2022.

The FCAA sets NAAQS for six criteria pollutants: ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead. Areas that have worse air quality than NAAQS for one or more pollutant are non-attainment areas. Fourteen out of the 18 MPOs in California include non-attainment areas. Because transportation projects may lead to changes in criteria pollutant emissions, these MPOs must perform a conformity determination to demonstrate that their FTIPs conform to FCAA requirements. Conformity determination requires use of California's emissions factor model (EMFAC) to estimate associated transportation emissions. The EMFAC is maintained by the California Air Resources Board (CARB) but must be approved federally.

On November 26, 2019 the federal Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One went into effect. This rule revokes California's authority to set its own passenger car and light truck greenhouse gas emissions standards and set zero-emission vehicle mandates. The California Air Resources Board prepared adjustments to EMFAC to accurately estimate future transportation emissions. FHWA required the United States Environmental Protection Agency (U.S. EPA) to approve the use of these adjustments before approving new Regional Transportation Plans and new FTIPs. U.S. EPA approved Part One adjustments on March 12, 2020.

The federal SAFE Vehicles Rule Part Two was finalized March 31, 2020 and went into effect June 29, 2020. Part Two requires corporate average fuel economy (CAFE) and CO<sub>2</sub> emissions efficiency to increase by 1.5 percent each year, compared with the CO<sub>2</sub> standards issued in 2012, which would have required increases of about 5 percent per year.

While Part Two was anticipated to require additional adjustments, on May 13, 2020 CARB announced that the impacts of Part Two will not affect transportation conformity determinations. However, this guidance comes after months of uncertainty and leaves inadequate time for the FTIP process to be completed by the state's October 1, 2020 deadline. On average, FTIPs take

over half a year to complete, and not all MPOs meet during the summer months. This bill helps to ensure that transportation projects that have already been approved can proceed despite the uncertainty created by the SAFE Vehicles Rules Part One and Two. Eliminating the state requirement that MPOs submit an FTIP in 2020 enables projects consistent with the 2018 FTIP to proceed. The process resumes by 2022, when the next federally required FTIP is due.

According to the author, “SB 1291 (Senate Committee on Transportation) ensures that transportation projects, and their associated safety benefits and jobs, can proceed despite months of uncertainty around Federal Transportation Improvement Program (FTIP) approval. The new federal SAFE Vehicles Rule rolled back fuel economy standards and revoked California’s authority to set more stringent emissions requirements under the federal Clean Air Act. This Rule had the secondary effect of creating uncertainty around how to estimate the emissions potentially resulting from Federal Transportation Improvement Programs (FTIPs), a necessary step before these plans can be approved and projects move forward. Federal guidance out in May provided clarity, but left inadequate time for Metropolitan Planning Organizations to meet a looming FTIP deadline on October 1, 2020. This bill provides MPOs much needed additional time for MPOs to finalize these plans.”

In support of the bill, the California Association of Councils of Governments writes, “The challenge that SB 1291 addresses is timing. It takes as long as eight months to put together the information to develop a list of projects under ideal circumstances. The process involves detailed conversations with all local agencies about all the projects that will occur, outreach, analysis, circulation, and ultimately, approval by the Regional Agency board before it can be submitted to Caltrans. Each regional list is subject to the conformity analysis. If conformity cannot be demonstrated, the projects in the list cannot proceed. State-wide, the total value of projects is over \$130 billion (though each region would be subject to its own analysis).”

Accordingly, SB 1291 affords Regional Agencies some flexibility with the unique circumstances surrounding the SAFE Rule and other events this year. We also appreciate that SB 1291 permits the process to be completed prior to 2022 (which would be the deadline under federal law). Most Regional Agencies actually prefer a two-year FSTIP cycle to the four-year federal minimum because it allows more flexibility in delivering projects (if one project unexpectedly stalls, there is a larger shelf of conforming projects in which they can shift resources under a two-year cycle). As a result, we actually expect that our member Regional Agencies will work with Caltrans to adopt the next FSTIP prior to the federal deadline. SB 1291 affords them this flexibility.”

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Association of Monterey Bay Area Governments  
California Association of Councils of Governments  
Council of Fresno County Governments (COG)  
Council of San Benito County Governments  
Madera County Transportation Commission  
Orange County Transportation Authority  
Placer County Transportation Planning Agency  
Sacramento Area Council of Governments  
San Diego Association of Governments

San Luis Obispo Council of Governments  
Santa Barbara County Association of Governments  
Santa Cruz County Regional Transportation Commission  
Shasta Regional Transportation Agency  
Southern California Association of Governments  
Stanislaus Council of Governments  
Transportation Agency for Monterey County (TAMC)  
Transportation California  
Ventura County Transportation Commission

**Opposition**

None on file

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