



March 10, 2023

TO: Board Members, Madera County Transportation Commission  
FROM: Gus Khouri, President  
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**RE: STATE LEGISLATIVE UPDATE – MARCH**

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On January 10, Governor Newsom released his proposed FY 2023-24 State Budget. The 2023-24 Budget, which contains \$223.6 billion in General Fund spending (\$297 billion with special funds), is projected to have a deficit of \$22.5 billion. This is a sharp turn from the past few years following surpluses in the FY 22-23 State Budget (\$97.5 billion) and the FY 21-22 State Budget (\$76 billion) surplus, which were predominantly used for one-time expenditures rather than long-term obligations. The legislature will deliberate on the Governor’s proposed budget and keep items open until the May revision is released. Per the Constitution, the legislature must submit a balanced budget to the Governor by June 15, and the Governor must sign by June 30. Due to its reliance on special funds such as the gas tax and vehicle registration fee, transportation is fairly insulated from impacts to the General Fund. There are a few items of interest that MCTC will monitor:

- **Transit Intercity Rail Capital Program**—A planned funding reduction in 2023 and 2024 from \$2 billion annually to \$1 billion in 2023-24 and \$500 million each in 2024-25 and 2025-26. These funds are set to be allocated proportionally, by region, based on population. This maintains approximately \$5.7 billion (74 percent) of the original \$7.7 billion planned additional funds for local transit capital infrastructure projects. This reduction will be restored if there is sufficient General Fund revenue in January 2024. This funding was included in AB 180 ((Committee on Budget), Chapter 44, Statutes of 2022)), which only provided intent language to provide \$4 billion over FY 23-24 and 25-26 conditioned on the availability of General Fund revenue.
- **Active Transportation Program**—A reduction of \$500 million in General Fund revenues, with \$300 million of the decline being restored from State Highway Account funds, for a net decrease of \$200 million. This will allow the program to sustain all the programming capacity approved in the 2023 programming cycle. This maintains approximately \$850 million (81 percent) of the original \$1.05 billion of additional funds for projects that increase the proportion of trips accomplished by walking or biking and the safety and mobility of non-motorized users. The ATP has received an overwhelming number of applications despite limited funding. For Cycle 5, the program received \$2.2 billion in applications but only had \$455 million available for award. For Cycle 6, which the California Transportation Commission awarded last December, \$3.1 billion of

funding requests were received, despite having \$1.7 billion in resources (including the \$1.05 billion). The FY 23-24 attempts to maintain some augmentation by relieving the General Fund and instead requiring the State Highway Account (SHA) -the central state transportation funding account) - to backfill the augmentation. This proposed ATP augmentation could help local jurisdictions in Madera County be more competitive in applying for the program, but it could come at the expense of completing highway maintenance and safety projects since the SHA also funds the State Highway Operations and Protection Program (SHOPP).

- **Climate Adaptation Program**—A shift of \$200 million General Fund with \$200 million State Highway Account funding, leaving unaffected the project funding that supports climate resiliency and reduces infrastructure risk. This funding shift could impact SHOPP projects to address maintenance and safety on the state highway system.

On March 10, Senate Budget Subcommittee #5, which oversees transportation budget issues, met to discuss the Governor’s FY 23-24 January Budget Proposal. Comments by Chair Elena Durazo and Senator Josh Newman aimed to find solutions to retain funding for public transportation to maintain investments to encourage mode shift and improve air quality. Senator Kelly Seyarto expressed concerns over not keeping the State Highway Account whole by diverting funding to the Active Transportation Program. The subcommittee will hold all items open until the release of the May Revision before taking final action.

### **Indirect Coast Rate Proposal**

Caltrans charges an indirect cost rate to self-help counties for work on the state highway system. That cost is capped at 10 percent through June 30, the end of the FY 20-21 fiscal year, through SB 848 (Committee on Budget), Chapter 46, Statutes of 2018. The legislature failed to authorize an extension of the 10 percent cap, partly because Caltrans failed to submit a statutorily required report, resulting in costs ballooning to over 27 percent for some self-help counties. MCTC will work with the Self-help Counties Coalition to reinstate the cap and ensure that relief is retroactive to avoid escalating costs associated with project delivery on priority projects on the state highway system. This will be attempted through a budget trailer bill that has yet to be identified.

### **Bills of Interest**

MCTC reviewed over 2,632 bills and 11 constitutional amendments introduced by the February 17 bill introduction deadline and has identified 12 priority bills. That number can change based on bills being amended. Policy bill hearings will begin in mid to late March. Spring Recess commences upon adjournment on March 30 and ends on April 10. Bills must progress to the Appropriations Committee of each house by April 28 if keyed fiscal, meaning a cost is associated with enactment, and May 5, if keyed non-fiscal, to move to the Floor. Bills that make it to fiscal committees must be heard by May 19 and be approved by June 2 off the floor of each house. Policy committees must complete their business by July 14 (start of Summer Recess, back on August 14), fiscal committees by September 1, and all business by the floor of each house by September 14, to be considered for signature by the Governor by October 14.

### **Threats to Transportation Funding**

On December 5, Governor Newsom called for a Special Session to examine the gas price spikes at the pump during the Fall of 2022. A few bills have been introduced to suspend the gas tax for one year (AB 53, ABx1 2) and funds collected in the greenhouse gas emission funds (SB 32 and SBx1 1). This would have a cataclysmic effect on delivering transportation projects since the gas tax is the main source of funding for local streets and roads, maintenance of the state highway system, and flexible funding for

transportation planning through the State Transportation Improvement Program (STIP) for multi-modal options. It is uncertain if these bills will receive a hearing, but Governor Newsom has previously proposed suspension of the inflationary adjustments to the gas tax. Ultimately, there will need to be a successor source to the gas tax given the prevalence of electric vehicles, which contributes to the revenue stream decline.

### **ACA 1 (Aguiar-Curry) Lower-Vote Threshold**

This measure would authorize a local government, including a special district, to impose, extend, or increase a sales and use tax or transactions and use tax imposed, or a parcel tax, to fund the construction, rehabilitation, or replacement of public infrastructure, defined to include improvements to transit and streets and highways and projects for the protection of property from the impacts of sea level rise, as well as for affordable housing if the proposition proposing that tax is approved by 55% of its voters.

### **Brown Act Bills**

During the COVID-19 pandemic, the need for social distancing made the usual practices for in-person public meetings impossible to continue. Governor Gavin Newsom, as part of a slew of emergency orders issued in response to the pandemic – Exec. Order No. N-25-20 (Mar. 12, 2020); N-29-20 (Mar. 17, 2020); N-08-21 (Jun. 11, 2021) – suspended many of the Brown Act (local governments and special districts) and Bagley-Keene Act’s requirements (state agencies and commissions) for teleconferenced meetings.

In 2021, the legislature enacted AB 361 (Rivas), Chapter 165, Statutes of 2021, which provided an exception to the Brown Act through 2024, if a state of emergency is declared, to allow all members of a board to meet virtually without complying with the Brown Act’s teleconferencing quorum, meeting notice, and agenda requirements. Boards must act every 30 days to extend the opportunity to meet virtually. Governor Newsom’s state of emergency declaration on the COVID-19 pandemic expired on February 28. Therefore, using AB 361 would necessitate issuing another state of emergency declaration.

In 2022, the legislature enacted AB 2449 (Rubio), Chapter 285, Statutes of 2022, allowing individual local boards, through January 1, 2026, to meet virtually twice per year without posting their location if at least a quorum of the members of the body participates in person at a singular physical location, and the public can participate virtually. Post-pandemic local boards are struggling to establish a quorum, particularly for technical and citizen’s advisory committees. Virtual meetings were also preferred to reduce vehicle miles traveled. Below are bills introduced pertaining to the Brown Act.

**AB 557 (Hart)** would remove the January 1, 2024, sunset on the Brown Act exemptions for boards to meet virtually during a state of emergency declaration provided under AB 361 (Rivas), Chapter 165, Statutes of 2021.

**AB 817 (Pacheco)**, jointly sponsored by the California Association of Recreation and Park Districts (CARPD) and the League of California Cities (CalCities), is currently a spot bill, but it will be amended to authorize ad hoc, citizen’s advisory, and technical advisory committees, to meet remotely.

**SB 411 (Portantino)** would allow local boards with appointed members subject to the Brown Act with a population of over 3 million to meet remotely.