

ATTACHMENT C

BILL: AB 338

AUTHOR: ASSEMBLY MEMBER ROGER HERNANDEZ
(D-WEST COVINA)

SUBJECT: POTENTIAL SALES TAX MEASURE

STATUS: SENATE TRANSPORTATION AND HOUSING COMMITTEE

ACTION: OPPOSE

RECOMMENDATION

Staff recommends that the Board approve an oppose position on AB 338 which would establish the authority for Metro to place a sales tax measure on a future ballot. The bill has been amended from its previous form.

ISSUE

Metro is currently considering placing a sales tax measure on a future ballot. As previously drafted the measure made various findings and declarations relating to a potential sales tax measure. The bill has since been amended to do the following:

- Establish the authority for Metro to place a sales tax measure on a future ballot.
- Including requirements to adopt an expenditure plan and specify that the expenditure plan include unspecified measures to guarantee geographic equity.
- Require that 25% of the funds be set aside for transit operations purposes.

DISCUSSION

The Board had previously adopted a work with author position on AB 338 when it made a series of findings and declarations regarding transportation decision making in Southern California and Los Angeles County. At the time the Board considered the measure originally, the bill was in the process of being amended. One provision which was in the previous version of the bill would have stated that the Legislature find that it is important that the revenues from taxes be allocated in a way that created geographic equity. AB 338 now includes a provision that the expenditure plan include measures that ensure geographic equity.

Since the original Board action, SB 767 has also been amended to incorporate language that was included in SB 1037 (Hernandez, 2014). This language requires,

among other things, that Metro include the input from the subregions into our Long Range Plan and that we engage in an open and transparent process to identify the costs and schedules of projects to be included in the expenditure plan. Additionally, Metro has continued to engage the subregions and other stakeholders in discussions about the potential ballot measure and the Board has committed to continuing that process going forward.

According to the Senate Governance and Finance analysis of SB 1037 the language in the bill was intended to ensure that voters will have comprehensive information about where their money would be spent, outstanding funding needs, current estimates for projects and would solicit from the subregions on current exact figures on new projects prior to the vote to extend or approve a new tax. That language is now included in SB 767. The Board of Directors adopted a work with author position on SB 1037 and we maintained our commitment to work with the author on that measure by including language in SB 767 that is consistent with the language that was in SB 1037. It should be noted that the language in SB 1037 did not specify projects and programs that should be funded in the ballot measure.

AB 338 does contain language that goes beyond a straight-forward authorization in that it mandates that a specific program be included. The Board has been clear in this process that its position is to support SB 767 which is our sponsored bill and that the legislation authorizing the ballot measure not specify projects and programs to preserve the ability of the bottoms up process.

While we appreciate the support of our entire delegation in working with Metro to address an opportunity to bring significant mobility improvements to our region staff would raise two concerns with AB 338. First, AB 338 is a second bill that authorizes Metro to place a measure on the ballot when we are currently sponsoring SB 767. As we have our sponsored measure and if there is agreement to include additional language to the statute authorizing a ballot measure, that language can be included in SB 767. The second issue is that AB 338 does identify a specific program to be funded by the tax; transit operations funding. When SB 767 was being considered in the Senate, this same provision was requested. That language was not included in SB 767 in order to preserve the bottoms up process at the local level. Staff is concerned that the inclusion of a specific program in state law, regardless of its worth, could set a precedent that could then be expanded to include guaranteed amounts for other projects and programs. That could put at risk the ability of local agencies to determine the structure of a ballot measure.

Metro is committed to working with our local partners and with our partners in the Legislature to gain consensus on a future ballot measure. We will continue to work with the Legislature to resolve any issues with our sponsored measure, SB 767, and we would seek to maintain the principle that the state legislation not itemize projects and programs to be funded by the tax. We believe it is appropriate to have only one measure in the legislative process, SB 767, that this is the appropriate vehicle to establish the relevant authorization, and that should there be consensus on including

additional language in state law, that language can be included in SB 767. For these reasons staff recommends that the Board adopt an oppose position on AB 338.

DETERMINATION OF SAFETY IMPACT

Staff has reviewed the legislation and has found that its implementation would have no impact on safety at the agency.

FINANCIAL IMPACT

There is no direct financial impact from the bill. The bill could limit the Board's discretion to fund other projects and programs by mandating that 25% of the funds be dedicated for transit operations when the Board could decide to allocate funds in another manner if that restriction were not in place.

ALTERNATIVES CONSIDERED

Staff has considered adopting a neutral position on the bill. However, a neutral position would not be consistent with the Board's direction that the legislation be a straightforward authorization to place a measure on the ballot and it would contradict our support position for our sponsored measure SB 767.

NEXT STEPS

Should the Board decide to adopt an oppose position, staff will communicate that position to the author and work to oppose the bill in the legislative process.