



Memorandum

Date: 12.03.09 **RE:** Plans and Programs Committee
December 8, 2009

To: Plans and Programs Committee: Commissioners Chu (Chair), Campos (Vice Chair), Chiu, Elsbernd, Maxwell and Dufty (Ex Officio)

From: Maria Lombardo – Chief Deputy Director for Policy and Programming
Anna LaForte – Deputy Director for Policy and Programming *mel*
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Through: José Luis Moscovich – Executive Director *je luis*

Subject: **ACTION** – Recommend Approval of the Process to Develop the Expenditure Plan for the Imposition of an Additional Vehicle Registration Fee of Up to \$10 in San Francisco Pursuant to the Requirements in SB 83, and Authorizing the Executive Director to Enter into Related Professional Services Contracts in an Amount Not to Exceed \$135,000

Summary

In late October, the Governor signed into law SB 83 (Hancock), which authorizes congestion management agencies (CMAs) to impose an annual fee of up to \$10 on motor vehicles registered within their respective counties. The funds would have to be used for programs and projects benefitting the people paying the fee, and they would have to be consistent with the regional transportation plan. Last month, the Authority approved Resolution 10-27, authorizing the Executive Director to initiate the process to develop an Expenditure Plan as well as a timetable for Authority Board approval to place a measure on the November 2010 ballot. The fee measure, which is estimated to generate a maximum of about \$5 million per year in San Francisco, would require a majority vote of the electorate in order to become effective. We have been coordinating with the CMAs in the other Bay Area counties and with the Metropolitan Transportation Commission, and believe that the most successful approach to implementing SB 83 would be for all Bay Area CMAs to simultaneously place the measure on the November 2010 ballot. To make this timeline, the Authority Board would need to adopt an Expenditure Plan and complete a required nexus study before San Francisco's June 15, 2010 deadline to place an initiative on the November 2, 2010 ballot. The time constraints and the relatively small amount of funds available (e.g. about \$5 million annually compared to over \$70 million annually for the Prop K half-cent sales tax) call for a very focused and streamlined approach to development of the Expenditure Plan. With that context in mind, the proposed schedule in Figure 1 lists key dates and outlines interim deliverables to be produced by staff and reviewed by the Authority Board, Citizen Advisory Committee, agency partners, stakeholder representatives, and members of the public. Development of the Expenditure Plan would include a number of specialized technical tasks that could require outside professional services, including polling, preparation of the nexus study, public outreach, development of educational materials, and development of the ballot measure language and related materials. **We are seeking a recommendation to approve the process to develop the Expenditure Plan for a new vehicle registration fee of up to \$10 in San Francisco pursuant to the requirements in SB 83, and to authorize the Executive Director to enter into related professional services contracts in an amount not to exceed \$135,000.**

BACKGROUND

On November 24, 2009, the Authority Board approved Resolution 10-27, authorizing the Executive Director to initiate the process to develop an Expenditure Plan pursuant to the requirements in SB 83 (attached), as well as a timetable for ensuring that the Authority Board is able to place the measure on the November 2010 ballot, should it so choose. SB 83 was authored by Senator Loni Hancock, a Bay Area legislator, and was one of several initiatives considered by the Legislature during the past session intended to mitigate congestion, air quality impacts from mobile sources, and to generate new revenues

that can help with these tasks. The bill authorizes congestion management agencies (CMAs) throughout the state to place a measure on the ballot to impose an additional annual fee of up to \$10 on motor vehicles registered within their respective counties.

In late October, Governor Schwarzenegger signed SB 83 into law, allowing the Authority, as CMA for San Francisco, to take up the question of whether or not to pursue such a measure. This is the first authorization provided by the state in many years that would generate additional transportation revenues at the local level. With over 500,000 vehicles registered in San Francisco, the program could generate about \$5 million per year.

The Authority Board could place the vehicle registration fee on the ballot by a simple majority vote which would also approve the specific Expenditure Plan, to put before the voters, for the revenues collected. SB 83 requires that the fees collected be used only to pay for programs and projects bearing a relationship or benefit to the owners of motor vehicles paying the fee and be consistent with the Regional Transportation Plan (RTP). It also requires that the Authority Board make a specified finding of fact (also known as a nexus finding) in that regard. Imposition of the fee would be subject to a simple majority vote of the San Francisco electorate.

The guidance in SB 83 is broad regarding what types of projects are eligible, but SB 83 specifically mentions the following project and program types:

- Bicycle and pedestrian projects
- Transit projects, specifically improved transit services through the use of technology and transit service expansion
- Local streets and roads rehabilitation
- Traffic signal coordination
- Traveler information systems
- Highway operational improvements, including high occupancy vehicle or high occupancy toll lanes
- Existing projects or programs or those with plan status. Specifically, matching funds for projects receiving state general obligation transportation bond funds; projects identified in adopted Congestion Management Program or Countywide Transportation Plan; and pollution mitigation programs and projects carried out by the CMA, Air District, regional water control board, or air pollution control district.

The purpose of this memorandum is to present the proposed process to develop the Expenditure Plan for a new vehicle registration fee in San Francisco to the Plans and Programs Committee, and seek input and a recommendation from the Committee for its approval, including authorization for the Executive Director to enter into related professional services contracts for up to \$135,000.

DISCUSSION

We have been coordinating with the CMAs in the other Bay Area counties and with the Metropolitan Transportation Commission (MTC), and believe that the most successful approach to implementing SB 83 would be for all Bay Area CMAs to simultaneously place the measure on the November 2010 ballot in their respective counties.

Placing a vehicle registration fee on the November 2010 ballot spells out a tight timeline for developing and approving an Expenditure Plan and the required nexus study. It is therefore imperative to move quickly to take all requisite steps to be able to implement the new fee. This timeline and the relatively small amount of funds available (e.g., about \$5 million annually compared to over \$70 million annually for the Prop K half-cent sales tax) call for a very focused and streamlined approach to development of the Expenditure Plan. With this context in mind, we developed the proposed schedule and process for preparing the Expenditure Plan, which are described in the sections that follow.

Schedule: The preliminary schedule shown below would enable the Board to place a vehicle registration fee measure on the November 2010 ballot. It shows key dates and indicates activities and deliverables on a monthly basis.

Figure 1.

Proposed Schedule for Developing Expenditure Plan and Placing Vehicle Registration Fee on Ballot

December 15, 2009	<ul style="list-style-type: none"> • Authority Board approves process to develop Expenditure Plan.
January 2010	<ul style="list-style-type: none"> • Staff reports to the Plans and Program Committee on revenue projections and initial findings regarding bonding options and constraints • Executive Director establishes stakeholder advisory panel • Establish subcommittee of the Authority’s Citizens Advisory Committee (CAC) • Solicit input into the Expenditure Plan structure
February 2010	<ul style="list-style-type: none"> • Staff reports to Plans and Programs Committee on draft Expenditure Plan structure
March – April 2010	<ul style="list-style-type: none"> • Continued outreach and development of Expenditure Plan, polling, and commencement of nexus study
April 2010	<ul style="list-style-type: none"> • Staff reports to Plans and Programs Committee on a draft Expenditure Plan and polling results
May 2010	<ul style="list-style-type: none"> • Authority Board acts on Expenditure Plan and nexus study to place measure on the November 2010 ballot
June 15, 2010	<ul style="list-style-type: none"> • Deadline to place measure on November 2010 ballot
November 2, 2010	<ul style="list-style-type: none"> • San Francisco voters consider measure

The schedule assumes nearly monthly updates to the Plans and Programs Committee and CAC. One of the first tasks we will undertake is to verify all the administrative requirements and associated deadlines for placing the measure on the ballot and incorporating that information into a more detailed schedule.

Development of the Expenditure Plan: SB 83 only requires that the proposed Expenditure Plan be presented at one noticed public hearing before the fee can be placed on the ballot. A regularly noticed board or committee meeting can serve as that heading. We are proposing a more robust public and stakeholder

involvement process than is required in SB 83. It is based upon the process we used to develop the Prop K Expenditure Plan in 2003, but is simplified and streamlined to reflect the timeline, revenue potential and requirements of SB 83. Key elements of our proposal include:

- Frequent (e.g., nearly monthly) briefings at Plans and Program Committee and CAC meetings
- Creation of a CAC subcommittee for this effort
- Formation of a stakeholder advisory panel whose membership would be seated by the Executive Director to provide representation of the following affiliations:
 - Business community
 - Neighborhood groups/interests
 - Transit users
 - Pedestrians and bicyclists
 - Disabled persons and/or seniors
 - Motorists
 - Urban planning/streetscape planning and design
 - Clean air and/or environmental
 - Labor/transportation industry
 - Public policy

To avoid a panel that becomes unwieldy in size, the Executive Director would appoint panelists who can adequately represent multiple affiliations. We would also seek input on at least a monthly basis from the Authority's Technical Working Group, which is comprised of representatives from City agencies, regional transit operators, and other regional and state agencies.

Given the timeline for a November 2010 ballot measure, we would seek input from the stakeholder advisory panel and the CAC subcommittee at strategic points, in order to directly inform development of the key deliverables shown in Figure 1. This periodic input would be paired with frequent updates to the larger CAC and Plans and Programs Committee.

While the proposed structure of input into the Expenditure Plan mirrors the process that was undertaken for Prop K, it is important to note that the significantly lower amount of funds that the vehicle registration fee would generate means a smaller, and likely simpler, Expenditure Plan with fewer categories of eligible projects and more programmatic categories than project-specific listings. In order to maximize the benefits of the new revenue source, it would also likely make sense for the Expenditure Plan to complement Prop K by leveraging funds from under-funded categories and/or funding projects or programs that don't fit well within the existing Prop K categories, such as streetscape improvements. These are some of the issues that we would immediately begin to work on, and bring back to the Plans and Program Committee and CAC for input in early 2010.

Professional Services Contracts: Development of the Expenditure Plan will require a number of specialized technical tasks that will necessitate outside professional services. The five key tasks and their estimated budgets are listed below:

- Polling efforts, which we may undertake separately or as part of a joint effort with other CMAs in the region (Estimated budget: \$30,000)

- Preparation of the nexus study (Estimated budget: \$50,000)
- Legal services through the City Attorney's Office and/or outside counsel (Estimated budget: \$20,000)
- Public outreach and development of educational materials (Estimated budget: \$20,000)
- Technical assistance with development of the ballot measure language and related materials (Estimated budget: \$15,000)

The total estimated cost for professional services is \$135,000, which would be funded by federal Surface Transportation Program grant funds from MTC for CMA planning, programming and related activities. These funds are already included in the Authority's adopted Fiscal Year 2009/10 annual budget. Further, our annual work plan includes advocacy for new revenues sources for transportation. We propose to absorb related staff expenses within that portion of the existing budget.

We are seeking a recommendation to approve the process to develop the Expenditure Plan for a new vehicle registration fee of up to \$10 in San Francisco, pursuant to the requirements in SB 83, and to authorize the Executive Director to enter into related professional services contracts in an amount not to exceed \$135,000.

ALTERNATIVES

1. Recommend approval of the process to develop the Expenditure Plan for a new vehicle registration fee of up to \$10 in San Francisco pursuant to the requirements in SB 83, and authorizing the Executive Director to enter into related professional services contracts in an amount not to exceed \$135,000, as requested.
2. Recommend approval of the process to develop the Expenditure Plan for a new vehicle registration fee of up to \$10 in San Francisco pursuant to the requirements in SB 83, and authorizing the Executive Director to enter into related professional services contracts in an amount not to exceed \$135,000, with modifications.
3. Defer action, pending additional information or further staff analysis.

CAC POSITION

The CAC will be briefed on this item at its combined November/December meeting scheduled for December 9, 2009, the day after the Plans and Programs Committee meeting. CAC input will be reported at the December 15, 2009 meeting of the Authority Board.

FINANCIAL IMPACTS

Miscellaneous professional services have been anticipated in the Authority's adopted FY 2009/10 work program and budget, so there would be no net financial impacts to the adopted Fiscal Year 2009/10 Budget from the recommended action. The staff activities required to develop the Expenditure Plan and nexus study can be carried out as part of the existing work program as part of the Authority's ongoing CMA functions.

RECOMMENDATION

Recommend approval of the process to develop the Expenditure Plan for a new vehicle registration fee of up to \$10 in San Francisco pursuant to the requirements in SB 83, and authorize the Executive Director to enter into related professional services contracts in an amount not to exceed \$135,000.

Attachment: SB 83 (Hancock)

Senate Bill No. 83

CHAPTER 554

An act to add Section 65089.20 to the Government Code, and to add Section 9250.4 to the Vehicle Code, relating to traffic congestion.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 83, Hancock. Traffic congestion: motor vehicle registration fees.

Existing law provides for the imposition by certain districts and local agencies of fees on the registration of motor vehicles in certain areas of the state that are in addition to the basic vehicle registration fee collected by the Department of Motor Vehicles for specific limited purposes.

The bill would authorize a countywide transportation planning agency, by a majority vote of the agency's board, to impose an annual fee of up to \$10 on motor vehicles registered within the county for programs and projects for certain purposes. The bill would require voter approval of the measure. The bill would require the department, if requested, to collect the additional fee and distribute the net revenues to the agency, after deduction of specified costs, and would limit the agency's administrative costs to not more than 5% of the distributed fees. The bill would require that the fees collected may be used only to pay for programs and projects bearing a relationship or benefit to the owners of motor vehicles paying the fee and are consistent with a regional transportation plan, and would require the agency's board to make a specified finding of fact in that regard. The bill would require the governing board of the countywide transportation planning agency to adopt a specified expenditure plan.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Motor vehicle congestion negatively impacts businesses and commuters, inhibits the efficient movement of goods, and elevates pollutants that impact the quality of the state's air.

(2) There are transportation improvements that will reduce congestion, including those that improve signal coordination, traveler information systems, intelligent transportation systems, highway operational improvements, and public transit service expansions.

(3) There are measures available to lessen the impact of motor vehicle-related pollution, including congestion management programs,

stormwater runoff best management practices, and transportation control measures aimed at reducing air pollution.

(b) It is the intent of the Legislature to establish a program that allows countywide transportation planning agencies or their counterparts to address congestion through transportation services and improvements and to mitigate the impacts of motor vehicles on air and water quality, and improve the business climate and natural environment.

SEC. 2. Section 65089.20 is added to the Government Code, to read:

65089.20. (a) A countywide transportation planning agency may place a majority vote ballot measure before the voters of the county to authorize an increase in the fees of motor vehicle registration in the county for transportation-related projects and programs described in this chapter. The agency may impose an additional fee of up to ten dollars (\$10) on each motor vehicle registered within the county. The ballot measure resolution shall be adopted by a majority vote of the governing board of the countywide transportation planning agency at a noticed public hearing. The resolution shall also contain a finding of fact that the projects and programs to be funded by the fee increase have a relationship or benefit to the persons who will be paying the fee, and the projects and programs are consistent with the regional transportation plan adopted pursuant to Section 65080. The finding of fact shall require a majority vote of the governing board at a noticed public hearing.

(b) The ballot measure described in subdivision (a) shall be submitted to the voters of the county and if approved by the voters in the county, the increased fee shall apply to the original vehicle registration occurring on or after six months following the adoption of the measure by the voters and to a renewal of registration with an expiration date on or after that six-month period.

(c) (1) The governing board of the countywide transportation planning agency shall adopt an expenditure plan allocating the revenue to transportation-related programs and projects that have a relationship or benefit to the persons who pay the fee. The transportation-related programs and projects include, but are not limited to, programs and projects that have the following purposes:

(A) Providing matching funds for funding made available for transportation programs and projects from state general obligation bonds.

(B) Creating or sustaining congestion mitigation programs and projects.

(C) Creating or sustaining pollution mitigation programs and projects.

(2) For the purposes of paragraph (1), the following terms have the following meanings:

(A) “Congestion mitigation programs and projects” include, but are not limited to, programs and projects identified in an adopted congestion management program or county transportation plan; projects and programs to manage congestion, including, for example, high-occupancy vehicle or high-occupancy toll lanes; improved transit services through the use of technology and bicycle and pedestrian improvements; improved signal coordination, traveler information systems, highway operational

improvements, and local street and road rehabilitation; and transit service expansion.

(B) “Pollution mitigation programs and projects” include, but are not limited to, programs and projects carried out by a congestion management agency, a regional water quality control board, an air pollution control district, an air quality management district, or another public agency that is carrying out the adopted plan of a congestion management agency, a regional water quality control board, an air pollution control district, or an air quality management district.

(d) Not more than 5 percent of the fees distributed to a countywide transportation planning agency shall be used for administrative costs associated with the programs and projects.

(e) For purposes of this section, “countywide transportation planning agency” means the congestion management agency created pursuant to Chapter 2.6 (commencing with Section 65088) or the agency designated pursuant to Section 66531 to submit the county transportation plan.

SEC. 3. Section 9250.4 is added to the Vehicle Code, to read:

9250.4. (a) The department shall, if requested by a countywide transportation planning agency, collect the fee imposed pursuant to Section 65089.20 of the Government Code upon the registration or renewal of registration of a motor vehicle registered in the county, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(b) The countywide transportation planning agency shall pay for the initial setup and programming costs identified by the department through a direct contract with the department. Any direct contract payment by the board shall be repaid, with no restriction on the funds, to the countywide transportation planning agency as part of the initial revenues available for distribution.

(c) (1) After deducting all costs incurred pursuant to this section, the department shall distribute the net revenues pursuant to subdivision (a) of Section 65089.20 of the Government Code.

(2) The costs deducted under paragraph (1) shall not be counted against the 5-percent administrative cost limit specified in subdivision (d) of Section 65089.20 of the Government Code.