



San Clemente

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*"The Spanish Village
by the Sea"*

March 9, 2020

The Honorable Toni Atkins
Senate President pro Tempore
California State Senate
Room 205
State Capitol
Sacramento, CA 95814

RE: SB 760 (Bates) State highways: State Route 241

POSITION: Support

Dear Senate President Pro Tempore Atkins:

On behalf of the residents and the City Council of San Clemente, I want to thank Senator Bates for authoring SB 760. I am writing to express our full support for SB 760. I am also writing as a Member of the Foothill Eastern Transportation Corridor Agency.

SB 760 is an Urgent and Timely Measure

SB 760 is an urgent and timely matter that if not addressed this year will result in continued controversy, additional litigation and significant transportation projects in South Orange County not moving forward. As you know, when parties are fighting, nothing gets done. The bill ends a controversial statutory freeway alignment that has consumed significant state and local government resources for decades. If SB 760 does not become law, the political conflict may continue indefinitely, additional litigation may ensue and the transportation projects that are so badly needed will not move forward.

What does the Bill Do?

This bill states that State Route 241 does not run through the City of San Clemente, realigning the route's southern terminus to Oso Parkway east of the City of Mission Viejo.

Background

The Transportation Corridor Agencies (TCAs) were formed in 1986 as a joint powers authorities (JPA) by the Orange County and cities within the County. Starting in the 1970s, the County and cities collectively planned for future highway needs. Subsequently, in 1987, SB 1413 (Seymour) authorized toll roads in Orange County. SB 1437 (Seymour) then authorized fees collected pursuant to a subdivision map.

These bills envisioned that, only upon a finding that there is no other adequate funding available from federal, state or other sources, the TCAs could toll the roads to pay off the then \$1 billion price tag, at which point the TCAs would then turn the roads over to the people as free roads like Interstate 5.

The TCAs are formed under statute enacted by the legislature in 1986, to plan, finance, construct, and operate toll roads in Orange County. They respectively cover the following regions:

1) The San Joaquin Hills Transportation Corridor Agency (SJTCA) oversees the San Joaquin Hills Toll Road State Route 73 (SR-73), which stretches 15 miles from Newport Beach to San Juan Capistrano in southwest Orange County.

2) The Foothill/Eastern Transportation Corridor Agency (F/ETCA) runs both the Foothill Toll Road and the Eastern Toll Road which include State Routes 133, 241, and 261, linking State Route 91 (SR-91) near the Orange County/Riverside County border to Interstate 5 (I-5) in Irvine and also to communities in South Orange County. Together, the TCAs have constructed and currently operate approximately 51 miles of toll roads primarily in south Orange County and presently employs a staff of 68 agency employees. Depending on the distance traveled, toll rates range anywhere from \$2 to slightly over \$10.

The TCA toll roads are financed with tax exempt nonrecourse toll revenue bonds on a standalone basis; toll revenue and developer fees cover debt service obligations. Each year Caltrans spends approximately \$2 million to pay for the maintenance of these toll roads.

Why is SB 760 Needed?

This bill is necessary to remove from the books a highway that state and regional transportation agencies have decided to abandon due to its devastating environmental, economic, cultural, and societal costs. California Streets and Highways Code Section 541 currently requires that the SR-241 Highway connect to Interstate 5 south of the City of San Clemente. The map included in the legislative history for Streets and Highways Code Section 541 confirms that the SR-241 Highway was intended to connect to Interstate 5 south of San Clemente, near Basilone Road in San Diego County. The joint powers agreement creating the Foothill Eastern Transportation Corridor Agency authorized it to develop SR-241 as “an environmentally-sensitive” thoroughfare.

While this mission is simple enough, it took a decade of litigation and the expenditure of millions for TCA and its partner Caltrans to finally come to the understanding that development of this transportation corridor at this location would have devastating consequences for San Onofre State Beach and other irreplaceable natural resources and for the City of San Clemente and its open space and natural resources. This included a Settlement and Protective Agreement entered into by TCA and Caltrans to end a decade-long fight against environmental advocates expressly prohibits a route connecting to Interstate 5 south of San Clemente.

In the most recent chapter of TCA’s interpretation of its charter and this statute, TCA and Caltrans scoped several alternatives. None of them connected to Interstate 5 south of San Clemente as required by state statute.

One of the new alternatives drove through the middle of San Clemente and its significant open space resources, terminating with the toll road going above its high school parking lot, nowhere near “south of San Clemente.” The City of San Clemente, a large San Clemente HOA (The Reserve), and the Capistrano Unified School District were forced to file lawsuits to stop this

overreach.

In the end, the Foothill/Eastern Transportation Corridor Agency Board of Directors voted unanimously to abandon the project and stop the SR-241 at its current location - Oso Parkway east of the City of Mission Viejo. This decision was applauded by residents of San Clemente. We believe that SB 760 will guarantee the safety of our residents for the future.

There is Precedent for SB 760

In 2019, the Legislature approved and Governor Newsom signed AB 29 [Ch. 791, Stat. 2019]. This bill applied to SR 710, and like SR 241, provided that after both the state and the region have concluded their studies of the alternatives and made a determination that the project would not go forward. AB 29 simply amended existing law to conform with the determined outcome. This set a precedent for SB 760.

Enactment of SB 760 will have a Positive Fiscal Impact on the State of California

As with AB 29, SB 760 will provide minor and absorbable costs to the Department of Transportation (Caltrans) and the California Transportation Commission (CTC) related to the removal of specified portions of SR 241.

In addition, SB 760 will provide significant cost savings for the state. Currently, Caltrans expends approximately \$2 million annually on the current TCA Toll Roads. If the additional stretch of the Toll Road is not built, Caltrans will not have to maintain it. Therefore, SB 760 will save the state money because it reduces future maintenance costs on SR 241.

As the TCA testified last year before the Senate Transportation Committee hearing, the TCA's March 12 decision to abandon the SR 241 Toll Road and support of the extension of the Los Patrones Parkway will ensure needed traffic relief until 2050, thereby ensuring that local funds, not state funds, will be expended. State funds and local transportation taxes that would have been spent on this unnecessary freeway can be redirected to more pressing projects elsewhere as determined by the State and the Orange County Transportation Authority.

What is the Impact of SB 760 on Current Litigation?

SB 760 does not interfere with existing litigation. The existing litigation brought by the City of San Clemente and The Reserve Association is a lawsuit over the meaning of the current provisions of Streets and Highways Code Section 541. This bill would have no effect on that litigation as its effects would be prospective, not retroactive.

This bill will govern the alignment of SR-241 going forward, but has no effect on the validity of the actions of any party to the litigation that took place prior to its enactment. Nor does it apply to any other matter related to matters being litigated. SB 760 confirms in state statute that action taken by the TCA at its March 12, 2020 meeting.

It is a Matter of Trust

SB 760 will codify the March 12 decision by the TCA and re-establish the trust between our local agencies that is the result of this Toll Road fight.

In the end, on March 12, 2020, Foothill/Eastern Transportation Corridor Agency Board of Directors voted unanimously to abandon the project and stop the SR-241 at its current location. SB 760 reflects that March 12 decision and lays the foundation so that trust within the community may be restored.

The City of San Clemente joins with Senator Bates her desire to encourage the parties to re-establish trust in regional transportation planning. SB 760 will facilitate that.

We, therefore, respectfully ask for your support of SB 760.

Thank you for considering our views.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kathleen Ward", is written over a horizontal line.

Kathleen Ward
Mayor, City of San Clemente
Director, Foothill Eastern Transportation Corridor Agency

cc: Governor Gavin Newsom
Members, California State Senate
The Honorable Patricia Bates
Members, San Clemente City Council