



San Clemente

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March 9, 2020

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

RE: SB 761 (Bates) Road construction: Conservation Easement

POSITION: Support

Dear Senate President Pro Tempore Atkins:

As Mayor of the City of San Clemente and a Member of the Foothill Eastern Transportation Corridor Agency, I have closely followed the various proposals for toll road development that could adversely impact our community and natural resources. On behalf of the residents and the City Council of San Clemente, I wish to express our full support for SB 761 to prevent another highway from dissecting our community and paving over our preserved natural open space areas, long recognized by our General Plan.

This measure makes it clear that no future major thoroughfares shall encroach upon property in an area that is subject to a conservation easement or is protected as open space under a local initiative within the City of San Clemente. This measure is comparable to AB 1426 (Boerner Horvath) [Ch. 168, Stat. 2020] that placed the same restrictions in an area in and around San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy. I want to emphasize, however, that the City is committed to being a collaborative partner in meeting regional mobility needs. The City Council recently supported an untolled roadway extension of the Los Patrones Parkway to connect to Avenida La Pata, which was also recently constructed and opened in 2016. These new roadways provided added connectivity into San Clemente from the communities of San Juan Capistrano, Rancho Mission Viejo, and others. Also, SB 761 provides that the provisions in the bill do not apply to State Route 5 and lands immediately adjacent to State Route 5 or the extension of Los Patrones Parkway as an untolled county arterial highway.

The Transportation Corridor Agencies (TCAs) were formed in 1986 as joint powers authorities (JPA) by 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.

*"The Spanish Village
by the Sea"*

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 cover the following regions, respectively:

- 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 (SR) 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 employ a staff of 68 agency employees. Depending on the distance traveled, toll rates range anywhere from \$2 to slightly over \$10.

The toll roads maintained by the TCAs are financed with tax exempt nonrecourse toll revenue bonds on a stand-alone basis; toll revenue and developer fees cover debt service obligations. Most recent figures show debt obligations for the Foothill/Eastern system at an estimated \$2.4 billion in outstanding principal and totaling an estimated \$6.5 billion in principal and interest from 2018-2053. For the San Joaquin Hills system, debt obligations are at an estimated \$2.1 billion in outstanding principal and totaling an estimated \$5.1 billion in principal and interest from 2018-2050.

Existing state statute routes SR-241 starting at Interstate 5 south of the City of San Clemente. State Route 241 starts and ends outside of San Clemente. For the last two decades, the TCAs have been planning an extension to the 5 south of San Clemente and north of Camp Pendleton. However, in 2016, the California Attorney General, State Park and Recreation Commission, Native American Heritage Commission, F/ETCA and conservation organizations entered into a legal settlement agreement protecting a specified avoidance area from the proposed toll road project. This ended years of litigation by the parties, and the San Diego Superior Court entered a judgment confirming and implementing the settlement agreement in January 2017. In March 2017, the F/ETCA, California Natural Resources Agency, conservation organizations, and Caltrans entered into a protective agreement in which Caltrans agreed not to authorize construction of a major thoroughfare in the avoidance area. Since the settlement, the F/ETCA has been planning a new route that conceptually passes through the private land of Rancho Mission Viejo, San Juan Capistrano, and San Clemente ultimately connecting to the 5.

San Clemente's General Plan contains open space protection measures dating back to the 1920s. On November 4, 2008, San Clemente voters approved Measure V – an initiative amending the General Plan to require voter approval to change an open space designation to a non-open-space designation. The California Constitution grants a city's voters the initiative power to propose and enact local legislation through a local election (Cal. Const. Art II, Sec. 8).

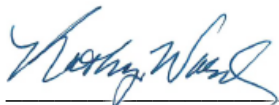
The context of Measure V makes it very clear that the City's electorate in no way contemplated a freeway through San Clemente open spaces. Further, building roadways not shown in the General Plan Circulation Element, like a multi-lane highway through open space, would run counter to the electorate's intent with Measure V and would significantly and adversely impact the open space areas that Measure V guards.

SB 761 seeks to provide the same protections for open space in San Clemente AB 1426 provides around San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy.

For all the above reasons I respectfully request your support of SB 761.

Thank you for considering our desire to preserve the natural environment and resources in the City of San Clemente for our residents and our future.

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