



## **TRANSMITTED ELECTRONICALLY**

April 18, 2022

Assemblymember Friedman  
Chair, Assembly Transportation Committee  
State Capitol, Sacramento, CA

**Re: AB 2438 (Freidman) Transportation Planning; alignment with state plans and greenhouse gas emissions standards. (Oppose)**

Dear Assemblymember Friedman,

The California Association of Councils of Governments (CALCOG) has an opposed unless amended position for AB 2348.<sup>1</sup> CALCOG represents the regional transportation planning agencies, county transportation authorities and commissions, and metropolitan planning organizations that will be directly affected of this bill.

Our reasons are outlined below.

### ***1. CALCOG Supports—And Seeks Appropriate Use of—State Planning Documents***

AB 2438 seeks to build on the work of the California Transportation Plan and the Climate Action Plan for Transportation Investment (CAPTI). We generally support the objectives and strategies included in these these document. Indeed, CALCOG has repeatedly expressed support for the California Transportation Plan because it plays an important role in developing a vision that reaches beyond current resources and capacity. Similarly, our member agencies have dedicated untold hours into sustainable communities' strategies that reduce greenhouse gas emissions to implement SB 375, and—in many respects—augment the CAPTI recommendations.

### ***2. State Goals Should First Align with Other State Goals***

AB 2438 would require a number of state transportation programs to align with “State Climate Goals” without any analysis of their consistency with other state goals (such as housing).

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<sup>1</sup> Our position is authorized by recommendation of CALCOG's Legislative Committee. CALCOG's Board of Directors will consider the recommendation at its next meeting. CALCOG policies authorize staff to submit the Committee's recommendation as CALCOG position to the Legislature prior to the entire Board's consideration.



*“state agencies are directed to provide “a high-quality, resilient, multimodal transportation system that provides mobility and accessibility for all users and to see that the system is safe and secure, meets GHG emission reduction targets, eliminates burdens for disadvantaged groups, supports economic development, protects the environment, and enhances public health and vibrant communities.”*

Strategic Growth Council, *AB 285 Report* (at Page 30; we would have added “*in a way that supports state goals in providing sufficient housing for all Californians.*”)

The *AB 285 Report* went on to find that although state goals can be complementary, they often vary and can even conflict with one another. For example, not every climate strategy aligns perfectly with all state equity objectives. Nor do state housing metrics fully complement each resilience strategy. Total correlation between such objectives is more exception than rule.<sup>2</sup>

The *AB 285 Report* noted that there is no state guidance or prioritization about how to handle such conflicting goals and priorities. This lack of clarity leads to uneven application of the goals between communities or even on a project-by-project basis. Thus, the *AB 285 Report’s* finding that the state should take the time to align and prioritize its own goals and objectives—even to the point of developing a conflict resolution process—makes sense.

This kind of internal resolution process must be a prerequisite to imposing a blanket alignment requirement like what AB 2438 proposes. What is a regional or local agency to do when required to align with climate goals that do not correlate perfectly with state goals around equity, housing, or resilience? AB 2438 provides no answer.

### ***3. Gap Analysis Must Include Fiscal and Feasibility Analysis***

Though we concur with the idea that the CTP should include a financial “gap” analysis, AB 2438’s current language (and corresponding alignment requirement) has three flaws. First, any gap analysis should analyse **both** the financial **and** scenario-based assumptions included in the CTP. For example, the CTP assumes a 50% increase in vehicle operating costs (which equates to the \$2.25 cent gas tax).<sup>3</sup> If this were to materialize, it would have a dramatic effect on how much people drive. Imposing such a pricing policy would also require a heavy political lift. We recall the adoption of SB 1 (which increased costs by one-tenth of what is proposed in the CTP) and the resulting state referendum. This kind of resistance means that the scenario envisioned may not actually materialize. There are also

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<sup>2</sup> We acknowledge that in many cases different state goals will correlate and align. We focus on their potential conflicts because AB 2438 would create a standard of alignment. Thus, we have to anticipate the unintended consequences of codifying a duty of alignment.

<sup>3</sup> To see how we calculated the \$2.35 per gallon figure, visit <https://calcog.org/5-things-about-the-ab-285-report/>

“aspirational” assumptions about land use growth and full funding of the state rail plan. It is only with a full feasibility and financial analysis that the state will have an accurate picture of the full gap between where we are today and where we want to be in 2050.

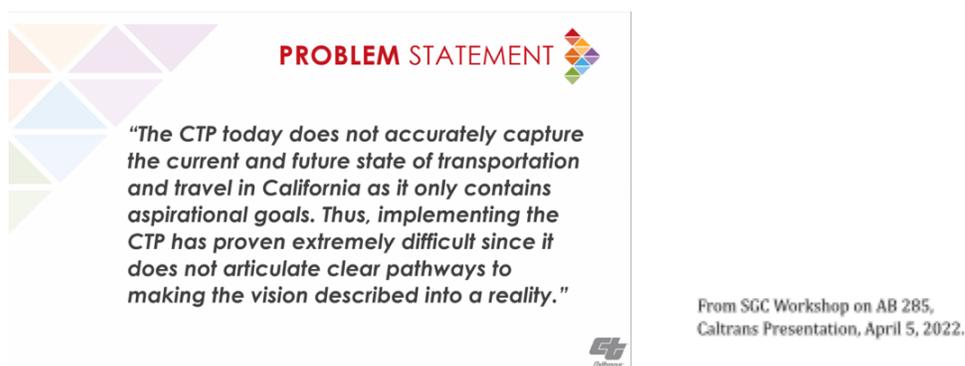
Second, we are concerned about what it means for an existing program to “align” with a state plan that includes both an aspirational vision and realistic fiscal analysis. Are state funding programs supposed to align with the aspirational vision part of the plan? Or should they align with CTP’s statement baseline or current fiscal reality? <sup>4</sup>

The value of including both a fiscal and feasibility analysis is that it assures the CTP will describes the difference between where California is today and where we want to be as a state in 2050. Understanding this gap lays a framework for further action. The CTP can then be used to develop new programs and policies that (when added with CAPTI, SB 375, and other state climate strategies) will assure that California realizes its 2050 Climate Goal.

#### 4. *AB 2438 Requires Consistency with a Plan That “Does Not Accurately Capture” Current and Future Transportation and Travel in California*

AB 2438 would require a number of funding programs—most of which are either totally or partially funded by SB 1—with “State Climate Goals,” including the CTP. But the CTP is a plan that includes many aspirational strategies. As we noted in the previous section, the most significant of these is the assumption that vehicle operating costs will increase by 50 percent – or the equivalent of a \$2.25 cent per gallon increase in the gas tax.

Even Caltrans acknowledges that the CTP does not “accurately capture the current and future state of transportation” that results in “extreme difficulty” in actually implementing the CTP. Here is a slide taken from a presentation related to the AB 285 Report:



**PROBLEM STATEMENT**

*“The CTP today does not accurately capture the current and future state of transportation and travel in California as it only contains aspirational goals. Thus, implementing the CTP has proven extremely difficult since it does not articulate clear pathways to making the vision described into a reality.”*

From SGC Workshop on AB 285, Caltrans Presentation, April 5, 2022.



<sup>4</sup> The point made in this paragraph is moot if the programs are not required to align with the CTP as recommended in Section 4

We think it's a mistake to require of billions in transportation investments to "align" with a plan that does not accurately capture current and future state of transportation and travel in California. This is not to say that we should not aspire to achieve the goals in the plan. We should. But the term "align" imposes a legal standard without sufficient definition.

#### ***5. We Have More Time to Consider Final Versions of the AB 285 & SB 150 Reports Because CAPTI and SB 375 Already Apply; Thus Timing is Not Urgent***

AB 2438 is premature for two reasons. First, the Strategic Growth Council is still in the process of prioritizing its recommendations from the *AB 285 Report*. A final report will be available later this year. Second, the Air Resources Board will release its first draft of the updated *SB 150 Report* within the next few weeks, with a final version to be completed by this fall. The *SB 150 Report* takes a more detailed review of SB 375 implementation (vs AB 285's focus on the relationship between state and regional plans). It's a fair assumption that the *SB 150 Report* will generate another set of (potentially conflicting) legislative ideas.

Given that the two documents are so close in their delivery, the more holistic approach would be to review both documents before adopting statutes.

We understand the counter argument: that the climate crisis is real and requires immediate action. We concur that the timing is urgent. But the climate issues are important enough that we must get it right the first time. Not getting it right could undermine the effort to achieve state goals. After both the final *SGC AB 285 Report Recommendations* and the upcoming *SB 150 Report* are published later this year, we will have much better information upon which to draft appropriate solutions.

Fortunately, there is time. If the requirement to align with the CTP is removed as recommend in Section 4 above, the other two laws included in AB 2438's definition of "State Climate Laws" already require or result in alignment:

- **SB 375 Alignment.** Every project—even state sponsored projects—must be included within a regional transportation plan (RTP). A metropolitan planning organization that adopts an RTP must have it approved by ARB to assure that it is part of a plan that meets the SB 375 target (which in turn has been identified in the Scoping Plan to be in alignment with SB 32). As a result, every project funded by the programs affected by AB 2438 must be consistent with a RTP that has been approved by the Air Resources Board. Thus, we think that this requirement is largely a restatement of existing law.
- **CAPTI Alignment.** CAPTI is an administrative action that guides to state transportation investments. The Administration is already applying CAPTI to state funding programs. Thus, while AB 2438 would elevate the alignment requirement to statute, that elevation



is not likely to significantly change investment decisions in the short term given the Administration's commitment to CAPTI's implementation.

Thus, we have the time to review SGC's final recommendations under the *AB 285 Report* process, and incorporate the findings of the *SB 150 Report*. It makes sense to take this time.<sup>5</sup> The large costs of getting it wrong (on billions in transportation funds) is greater than the small risks associated with delay (with the interim protections already in place).

## **6. Conclusion**

Thank you for the opportunity to express our opposition. We remain open to conversations that further the underlying goals of the author. Please contact me [[bhiggins@calcog.org](mailto:bhiggins@calcog.org) or (916) 717-8324] if I can be of any assistance.

Sincerely,

A handwritten signature in black ink that reads "Bill Higgins".

Bill Higgins  
Executive Director

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<sup>5</sup> Additionally, the next CTP is due in 2025, meaning that the introduction of the fiscal analysis is also not urgent or required this year.