

Memorandum

To: CHAIR AND COMMISSIONERS

Date: November 23, 2009/10

From: CHRIS KUNZE
Chair of the Technical Advisory Committee on Aeronautics

Reference No. 4-17
Action

Ref: Technical Advisory Committee on Aeronautics Report on Accomplishments

Issue:

Should the Commission accept from its Technical Advisory Committee on Aeronautics (TACA) its annual report on accomplishments?

Recommendation:

Staff recommends that the Commission accept TACA's report on its accomplishments and use it to develop the Commission's own annual report to the Legislature.

Background:

During 2009-2010, TACA:

- Continued its recommendations that the Commission support legislation dealing with the impacts on airports from incompatible land use.
- Continued to recommend that the Commission support legislation that would provide a stable funding source, as well as increased funding, for the Aeronautics Account.
- Recommended that the Commission retain a match rate of 10% that local agencies must provide to obtain State funds for Acquisition and Development projects. The Commission adopted TACA's recommendation at its *June 30 – July 1* meeting.
- ~~Recommended that the Commission continue the Airport Improvement Program (AIP) match rate of 2.5 percent by the State, which, in turn, increased the local match for federal grants and maximized State funding for additional grants. The Commission adopted TACA's recommendation at its *June 30 – July 1* meeting. The ratio did not change and was not brought to the Commission.~~
- Considered and tracked bills regarding:
 - airport land use commissions (SB 737 1141); and
 - ~~wildlife management on airports (SB 481).~~
 - *Aviation easements (SB 1333);*
 - *Private postsecondary education (AB 1140 & AB 1889;*

- *Emergency flights for medical purposes (AB 1660);*
 - *General aviation (AJR 33); and*
 - *Santa Monica airport (AJR 41).*
- *Actively supported SB 737 (SB 1141) (Negrete McLeod) through letters and testimony, which sought to update the California Public Utilities Code to solidify and strengthen airport land use law to preclude and prevent further incompatible land use around airports. ~~SB 737 has become a two-year bill. SB 1141 passed in both houses on August 30 and was enrolled. (Need to update status in final report)~~ On September 25, 2010, the Governor returned SB 1141 without his signature. The Governor felt that existing law provides local officials sufficient land use tools to protect their airports from encroaching development and to protect the public. Further, the Governor felt the bill fiscally punishes those local governments who believe they can make good land use decisions on their own accord without countywide airport land use commissions.*
 - ~~Actively supported SB 481 (Cox) through letters and legislative visits, which sought to bring the California Fish and Game code into conformity with Federal regulations regarding wildlife hazards on airports. SB 481 was signed by the Governor on October 11, 2009, and becomes effective January 1, 2010.~~
 - *Received briefings on the impact of the California Private Postsecondary Education Act of 2009 on flight training and aircraft maintenance training in California. Without any notification to collaboration with the aviation industry, AB 89 removed the exemption for FAA approved schools which was contained in the prior (1989) legislation. The Act imposes a fee structure on flight training and aircraft maintenance training that could all but end this training in California, have serious long term unanticipated economic consequences, and put thousands of aviation professionals out of jobs.*

Two bills were introduced to delay the impact of AB 48 on the aviation industry. AB 1140 passed out of the Assembly but failed to get out of the Senate. AB 1189 made it to the Governor, but was vetoed on a non-aviation issue because the Governor felt the Legislature over-stepped its authority by requiring the Bureau for Private Postsecondary Education, an executive branch agency, to follow specific staffing requirements prescribed by the Legislature.

- ~~Requested presentations from aviation entrepreneurs and experts to understand in more detail the impact of new aviation technology, both in terms of traffic management and new aircraft on California's aviation system. (Did we do this?)~~
- *Continued to receive briefings on NextGen air traffic control/routing equipment and protocols. The new technology when implemented will reduce fuel consumption, CO₂ and other emissions, and reduce flight times.*
- ~~Recommended to the Commission the adoption of guiding principles for FAA funding reauthorization. The Commission adopted those principles at its July 8, 2009 meeting and thereafter forwarded the principles to the California Congressional Delegation in Washington D.C., as well as to the Governor's liaison for federal legislation. Continued to receive briefings and track FAA funding reauthorization, which is now in its 16th continuing resolution without an adopted new authorization.~~

2009 2010 ACTIVITY AND ACCOMPLISHMENTS

Air Transportation

The Aeronautics Program comes from a 10-year Capital Improvement Plan comprised of a fiscally unconstrained list of projects from eligible airports. The Aeronautics Program, a biennial three-year program of projects, is fiscally constrained. The Aeronautics Account, which receives revenues from State general aviation fuel and jet fuel taxes, funds the Aeronautics Program. Funding from the Aeronautics Program, combined with local matching funds, is used to receive federal Airport Improvement program (AIP) grants and fund capital outlay projects at public-use airports through the Acquisition and Development (A&D) element of the California Aid to Airports Program (CAAP). The CAAP also includes a statutory annual credit grant program, which provides annual non-discretionary grants of \$10,000 for each publicly-owned, public-use general aviation airport in the State. Aeronautics Account funds are applied first to Caltrans aeronautics operations and the annual credit grant program. Any remaining funds are then available for the projects in the Aeronautics Program adopted by the Commission.

The 2009-2010 Fiscal Year state budget transferred \$4 million from the Aeronautics Account to the General Fund. In addition, the budget provisions suspended the code provisions authorizing to Division of Aeronautics to issue grants until January 1, 2011. Consequently, no financial aid to airports has been awarded ~~since August 2009~~ from the FY 2009-2010 budget or from prior year grants after the budget was finalized.

During the year, the Commission received advice from its Technical Advisory Committee (TACA) on Aeronautics regarding the Aeronautics Program and the matching ratios of the Aeronautics grant programs. In June/July 2010, the Commission retained a match rate of 10% that local agencies must provide to obtain State funds for Acquisition and Development projects. ~~In the same month, the Commission also continued the reduced match rate of 2.5% for the Airport Improvement Program (AIP match), which increased the local match required to qualify for federal grants. The reduction in the AIP matching rate will permit previously unfunded A&D non-safety projects to receive State funding.~~

The Commission also received advice from TACA on pending legislation. TACA members, representing their own organizations, also actively supported SB 737 1141 (Negrete McLeod) ~~and SB 481 (Cox)~~ and AB 1889, which the Commission supported. *(Need to add AB 1889 if we get a letter of support from the Commission)*

Commission's Aviation Responsibilities

The Commission's primary responsibilities regarding aeronautics include:

- advising and assisting the Legislature and the Secretary of the Business, Transportation and Housing (BT&H) Agency in formulating and evaluating policies and plans for aeronautics programs;
- adopting the California Aviation System Plan (CASP); a comprehensive plan defining State policies and funding priorities for general aviation and commercial airports in California; and

- adopting and allocating funds under the biennial three-year Aeronautics Program, which directs the use of Aeronautics Account funds to:
 - provide a part of the local match required to receive Federal AIP grants; and
 - fund A&D capital outlay projects for airport rehabilitation, safety and capacity improvements at public-use airports.

Under Section 14506.5 of the California Government Code, the chairman of the California Transportation Commission appoints a Technical Advisory Committee on Aeronautics (TACA), after consultation with members of the aviation industry, airport operators, pilots, and other aviation interest groups and experts, as appropriate. TACA gives technical advice to the Commission on the full range of aviation issues considered by the Commission. The current membership of TACA includes representatives from airport businesses, pilots and aircraft owners, managers of commercial and rural airports, managers of operations at major commercial airports, a manager from a commercial air and spaceport, metropolitan and local planning organizations, and federal and State aviation agencies.

This statutorily mandated advisory committee lends its expertise to the Commission as the Commission carries out its responsibility in advising the Secretary of the BT&H Agency and the Legislature on State policies and plans for transportation programs in California. TACA has been working with Caltrans, the BT&H Agency and the Legislature to develop potential stable revenue sources and to clarify roles and policies for the State in developing and maintaining California's aviation system.

The members of the Technical Advisory Committee on Aeronautics are:

- Michael Armstrong, Aviation Program Manager, Aviation Planning, Southern California Association of Governments
- Daniel Burkhart, Director of Regional Programs, National Business Aviation Association
- Gary Cathey, Chief, Division of Aeronautics, California Department of Transportation, Ex Officio
- ~~Peter Hill, Vice Mayor, Rocklin City Council Resigned~~
- Harry A. Krug, Association of California Airports, Airport Manager, Colusa County Airport
- Chris Kunze, TACA Chairman, Staff Advisor, Long Beach Municipal Airport
- ~~Michael La Pier, Chief Operating Officer, Sacramento County Airport System Resigned August 2010.~~
- Robin Hunt, Federal Aviation Administration, Ex Officio
- Mark F. Mispagel, Attorney/Consultant, Law Offices of Mark F. Mispagel
- John Pfeifer, Aircraft Owners and Pilots Association (AOPA), California Regional Representative
- Alexander Waters, Vice President of Business Development, KaiserAir, Inc.
- William T. Weil, Jr., TACA Vice-Chairman, Mojave Air and Spaceport.
- ~~Alex Wileox, CEO, JetSuite~~
- ~~Carl Guardino, California Transportation Commission, Commission Liaison (through)~~
- Joseph Tavaglione, California Transportation Commission, Commission Liaison
- John Chalker, California Transportation Commission, Commission Liaison

Acquisition & Development Match Rate Unchanged

By statute, the Commission annually establishes a local matching rate between 10% and 50% that local agencies must meet to receive Acquisition and Development (A&D) grants. At its June 2009 meeting, based upon the Department's and TACA's advice, the Commission retained the 10 percent A&D local match requirement that it originally established in 1995. This action continues to ensure that the maximum number of airports participate in the Aeronautics Program. Further, a low match rate does not result in a small number of large grants because statute limits California Aid to Airports Program A&D Grants to a maximum of \$500,000 per airport per year. *However, as noted above, the 2009-2010 state budget suspended this program through January 1, 2011.*

AIP Match Rate Reduced

~~The Commission retained last year's AIP State match rate of 2.5 percent at its June (?) 2009 meeting. The local jurisdictions agreed to provide a higher local match rate for federal funds. This reduced State match rate help free up State funds that will allow the Commission to fund A&D projects that were previously unfunded. However, as noted above, the 2009-2010 state budget suspended this program through January 1, 2011.~~

State Legislation

The Commission advises and assists the Legislature and the Secretary of the BT&H Agency in formulating and evaluating policies and plans for aeronautics programs. The Commission is concerned about the shifting of Aeronautics Account funds to the General Fund. In fact, the Commission focused over the last few years on the need to establish a stable funding source and for additional funding to allow more capital improvements for general aviation. TACA recommended legislation to make the Aeronautics Account a stable revenue source. The suggested legislation would prohibit permanent transfer of funds from the Aeronautics Account to the General Fund. Under the suggested legislation, the State shall repay all transfers, as if they were loans, with interest at a specified future date.

The Commission is also concerned about the impacts from incompatible land use around airports and recommended that the Legislature take action on this issue. For several years, the Commission has included in its Annual Report the recommendation to work with representatives of the Business, Transportation and Housing Agency and the Department to: "...update, as necessary, the California Public Utilities Code sections 21670 through 21679 to further solidify and strengthen airport land use law to preclude and prevent incompatible land use around airports." Over the last 4 years, several TACA members, representing their respective organizations, and Commission staff met with several legislative staffs regarding the Commission recommendation on incompatible land use around airports.

~~Last year~~ In 2008, Senator Gloria Negrete McLeod introduced SB 1118 which died in the Assembly at the end of the two-year session. On February 27, 2009, with the start of a new two-year session, Senator Gloria Negrete McLeod introduced the same legislation as SB 737: Airports: airport land use commissions. *That bill died in the Senate Appropriations Committee because of analysis that determined that the reinstatement of required Airport Land Use Commissions would be an unfunded state mandate. In February, 2010, the Senator introduced SB 1141.* The bill was sponsored by the Aircraft Owners and Pilots Association and strongly supported by the Association of California Airports, the Southwest Chapter of the American Association of Airport Executives, the California Pilots Association, and the National Business Aviation Association, as well as a number of smaller

~~associations. The bill proposed the elimination of exemptions from the requirement that all counties with public use airports establish countywide Airport Land Use Commissions and the elimination of certain alternative processes to countywide Airport Land Use Commissions. The bill made a number of technical corrections to current code and established the authority of the California Division of Aeronautics to utilize aeronautics account funds (annual credits) to fund startup costs for counties without Airport Land Use Commissions to establish Airport Land Use Commissions. Primary opposition to the bill came from the County of San Bernardino and the City of Watsonville, neither of which are in compliance with current code. The bill passed in both houses of the legislature on August 30 and was enrolled. On September 25, 2010, the Governor returned SB 1141 without his signature. The Governor felt that existing law provides local officials sufficient land use tools to protect their airports from encroaching development and to protect the public. Further, the Governor felt the bill fiscally punishes those local governments who believe they can make good land use decisions on their own accord without countywide airport land use commissions.~~

~~This year SB 737 passed in the Senate Committee on Local Government on a 5-0 vote. The bill is currently held in suspense in the Senate Appropriations Committee due to State budget issues.~~

~~TACA also recommended to the Commission that it support SB 481 (Cox), which the Commission did at its April 2009 meeting. SB 481 proposed to resolve a conflict between existing State statutes and federal regulations. Specifically, SB 481 would provide that, notwithstanding any other provision of State law, a public use airport certificated by Federal Aviation Administration operating in the State that takes [e.g., removes, captures or kills], wildlife to protect public safety pursuant to federal law, including a federal depredation permit, does not violate State fish and game laws. Under current statutes, State Department of Fish and Game officials could cite local airport personnel for violating State law even though those local personnel have valid federal fish and wildlife depredation permits.~~

~~The bill was actively supported by TACA members representing their own organizations through testimony and letters, as well as by Commission staff at various committee hearings. SB 481 passed the Senate and Assembly. The Governor signed SB 481, which will become effective January 1, 2010.~~

In 2009, the Legislature passed and the Governor signed the California Postsecondary Education Act of 2009 (AB 48). This legislation was enacted without any notification to or collaboration with the aviation industry. The prior legislation, enacted in 1989, included a provision that partially exempted flight training and aircraft maintenance training activities approved by the Federal Aviation Administration from the provisions of the implementing regulations. Over concern about the impact of the failure of a major national flight training company in 2008, which reportedly left thousands of students with large debts and no completed training, AB 48 eliminated the exemption for FAA-approved schools. The California Bureau for Private Postsecondary Education (BPPE) interprets the provisions of AB 48 to apply to all flight training and aviation maintenance training, without regard to the size of the facility, including application to independent Certified Flight Instructors. Many flight schools and independent instructors report that the fees required to obtain BPPE approval to operate will put them out of business.

Two bills were introduced to delay enforcement of AB 48 on FAA-approved schools pending a legislature review of the situation. AB 1140 was a stand alone bill to delay enforcement. It was placed on the Senate inactive file on August 31. AB 1889 contained similar provisions, in addition to omnibus corrections to AB 48 not involving aviation. AB 1889 passed on August 31 with bipartisan support and was enrolled. AB 1189 was vetoed by the Governor because he felt the Legislature over-stepped it authority by requiring the Bureau for Private Postsecondary Education, an Executive Branch agency, to

follow specific staffing requirements prescribed by the Legislature. This is both an inappropriate and unacceptable action to micro-manage and burden the implementation of regulatory policy

Federal Re-Authorization for Aeronautics

Vision 100, Century of Flight Authorization Act of 2003, is a four-year statute that lapsed September 2007. The Act provides funding for the Federal Aviation Administration's Airport Improvement Program. These revenues are extremely important for the overall preservation and enhancement of California's Public Use Airport System. Nationwide the annual authorized AIP funding levels averaged around \$3.55 billion. California typically receives around eight to ten percent of the funds appropriated.

This year Congress *continued to attempted* to pass a three-year extension of Vision 100. Congress, however, was unable to agree on a long-term reauthorization of federal aviation policies and programs. Congress extended current taxes and FAA spending authority through December 31, ~~2009~~ 2010. ~~The extension gives Congress and the Administration time to consider the crafting a multi-year measure.~~ A complete reauthorization package must provide long-term stability and continue to modernize America's aviation system through accelerated implementation of Next Generation technology.

With regards to the federal re-authorization, *in 2009* TACA advised and the Commission recommended the following set of guiding principles to support California's airports and aid the California Congressional Delegation in Washington, DC in its efforts to maintain and increase the federal funding, including appropriations, as follows:

- Reauthorization should be multi-year, to permit airports to plan ahead on more than a year-to-year basis.
- Reauthorization should provide increased Airport Improvement Program (AIP) funding to meet airports' capital improvements needs.
- Reauthorization should increase passenger facility charges (PFCs) to meet airports' capital improvement needs with less reliance on grants and operating revenues, and the PFCs should be inflation indexed to maintain its project production value.
- Reauthorization should NOT include any legislated requirements for new fire fighting standards. Any such potential changes should follow the Federal Aviation Administration (FAA) led Aviation Rulemaking Advisory Committee process.
- Reauthorization should increase funding for Essential Air Service, Small Community Air Service Development, and Contract Tower Programs.
- Reauthorization should increase funding for the environmental initiative Voluntary Airport Low Emission (VALE) program, including such funding for non-commercial service airports.
- Reauthorization should provide increased funding for Next Generation Air Transportation System (NextGen) implementation.
- Reauthorization should provide increased funding for runway safety area improvements.