

To: VTA Board of Directors  
From: Kurt Evans, Government Affairs Manager  
Date: April 22, 2008  
Subject: General Information: Weekly Legislative Report

For your information, I am attaching the weekly legislative update for the week of April 14, 2008.

## MEMORANDUM

**TO:** Santa Clara Valley Transportation Authority  
Board of Directors

**FROM:** Kurt Evans, Government Affairs Manager  
Santa Clara Valley Transportation Authority

**DATE:** April 21, 2008

**SUBJECT:** Weekly Legislative Update: Week of April 14, 2008

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### **FEDERAL**

**Transportation:** During a recent hearing before the House Subcommittee on Highways and Transit, representatives from local transit agencies said the reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) needs to focus on meeting the transportation needs of metropolitan areas. The transit officials testified that the health of the national economy depends on maintaining the flow of commerce in urban areas, which generate more than 75 percent of the U.S. gross domestic product. They suggested that the federal government develop a national plan for infrastructure investment and continue to fund public transit, but they also asked for relief from federal interference in local transit projects and for direct funding for urban areas. In their testimony before the subcommittee, transit officials emphasized the need for Congress to identify a sustainable, growing funding source for transportation projects. They suggested that potential sources may include revenues from a gas tax increase, a carbon tax, a cap-and-trade program for greenhouse gas emissions, or private-sector funding.

**Amtrak:** By a vote of 70-22, the Senate passed S. 294, the Passenger Rail Investment and Improvement Act. This legislation authorizes \$3.3 billion in operating subsidies for Amtrak over six years and \$4.9 billion for capital grants. The latter amount includes \$1.4 billion to be allocated to the states for intercity passenger rail upgrades. S. 294 also contains a number of provisions aimed at holding Amtrak more financially accountable and at ensuring transparency in its operations. Finally, the measure authorizes a pilot program that would allow up to two Amtrak routes to be considered for competitive bidding each year. A House Amtrak bill is expected to be introduced later this month.

In terms of FY 2009 appropriations, President George W. Bush recommended \$800 million for Amtrak. However, Amtrak's own budget request asks Congress for about \$1.7 billion, with \$560 million going to meet operating costs and \$800 million for capital projects. Amtrak also wants \$114 million in back pay and salary increases for employees who have not been given a raise in nearly eight years. While Congress routinely funds Amtrak at numbers that are higher

than the amounts recommended by the White House, House appropriators have already indicated that they are unlikely to provide funding to the level of Amtrak's FY 2009 request.

**Global Warming:** In a White House Rose Garden speech, President Bush proposed a new target for stopping the growth of the nation's greenhouse gas emissions by 2025. The President also called for putting the brakes on greenhouse gas emissions from electric power plants within 10 to 15 years. His proposal, however, was quickly denounced by congressional Democrats and environmentalists as falling far short of what is needed to stabilize the concentration of heat-trapping gases in the atmosphere.

The new White House initiative comes as the President appears, in the view of congressional Democrats and environmentalists, as being increasingly irrelevant in the climate change debate both on the domestic and international stage. All three presidential candidates—Democratic Sens. Hillary Rodham Clinton and Barack Obama, and Republican Sen. John McCain—favor a more aggressive program on climate change than does President Bush, all supporting mandatory limits on greenhouse gas emissions. Meanwhile, Senate Democratic leaders plan to begin debate in June on legislation that would cap greenhouse gas emissions and allow polluters to ease some of the cost by buying emissions credits. This “cap-and-trade” approach is aimed at cutting emissions by 70 percent by mid-century. The House also is moving toward considering a cap-and-trade proposal. The President, however, has been a staunch opponent of a mandatory cap-and-trade approach to reducing greenhouse gas emissions, preferring largely voluntary measures.

**Supplemental Appropriations Bill:** Congressional Democrats are expected to defy President Bush's April 10 threat to veto the supplemental appropriations bill for the Iraq war if it contains domestic spending or exceeds his \$108 billion request, and attach a second economic stimulus package to the measure. Democrats accused the President of being out of touch with the will of the American public, and more focused on winning the Iraq war than addressing the domestic economic crisis. Senate Appropriations Committee Chairman Robert Byrd (D-WV) called the President “flat wrong” for asserting that it was wasteful to invest in domestic spending, but a wise investment to pour billions into the Iraq war. The Democrats' package may include extending unemployment insurance, increasing food stamps and energy assistance, providing more money for education and health care, and allocating resources for water and transportation infrastructure projects.

House Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Harry Reid (D-NV) have not yet decided which items to seek as part of the war supplemental appropriations bill. Pelosi, who negotiated with the Bush Administration to win quick passage of a two-year, \$168 billion economic stimulus package earlier this year, called on the President to support a second measure “to get our economy back on track, create jobs and speed assistance to families struggling to make ends meet.” The first package included more than \$100 billion in rebates to taxpayers, which will begin to be mailed or deposited directly into bank accounts next month. President Bush has said he wants to wait for those rebates to reach households—and perhaps get spent—before deciding on a second stimulus package. But pent-up demand in Congress has pushed items left out of the first package to the forefront.

**Housing:** The Senate voted 84-12 to approve a bipartisan bill to address the mortgage crisis. The legislation overhauls the Federal Housing Administration's Mortgage Insurance Program. It provides \$10.9 billion in new bond authority to refinance sub-prime loans, \$4 billion in Community Development Block Grants for local governments to purchase and rehabilitate foreclosed properties, and \$50 million for additional counseling services for borrowers in danger of defaulting on mortgages. The measure also includes a \$7,000 income tax credit for individuals buying foreclosed property, and allows homebuilders and other firms now posting losses to retroactively claim refunds against previous years' taxes.

Still, Senate Banking Committee Chairman Christopher Dodd (D-CT), the bill's sponsor, expressed concern that the legislation does not go far enough to prevent future foreclosures and indicated that he would be willing to support the adoption of some of the proposals put forth in the House that are aimed at more directly assisting threatened homeowners. The House bill, which is still being crafted, will likely provide a minimum of \$300 billion to allow the Federal Housing Administration to refinance over a million troubled loans, and may offer tax relief for first-time homebuyers and investors in low-income rental housing. But the House version is likely to reject some of the Senate's proposals, including tax breaks for homebuilders and purchasers of foreclosed homes.

Meanwhile, the Bush Administration is expanding a federal government program known as FHASecure to help homeowners head off foreclosure. The President's plan would let more low-to moderate-income homeowners refinance into mortgages with monthly payments that they can afford, while lenders would take a loss on the loans.

**War in Iraq:** President Bush ordered an indefinite halt in U.S. troop withdrawals from Iraq after July 2008, embracing the key recommendations of his top war commander, Gen. David Petraeus. The President also said Petraeus will "have all the time he needs" to evaluate further withdrawals.

President Bush's decision, which had been foreshadowed by two days of testimony before a skeptical Congress by Petraeus and Ryan Crocker, the U.S. ambassador to Iraq, virtually guarantees a major U.S. presence in Iraq through the remainder of his term in office. Now in its sixth year, the war has claimed the lives of more than 4,000 U.S. troops and cost more than \$500 billion. During his testimony, Petraeus told Congress that it is too early to talk about future drawdowns because the situation in Iraq remains fragile. He further commented that while security has improved and Iraqi forces are shouldering more of the fight against extremists, Iraq still could descend again into chaos. Petraeus informed lawmakers that he wants a 45-day period of "consolidation and evaluation," to be followed by an indefinite period of assessment before he would recommend any further pullouts.

## **STATE**

**California DREAM Act:** State legislators are trying for a third time to pass a version of the California Development, Relief and Education for Alien Minors (DREAM) Act, which would open up limited college financial aid to some of the estimated 25,000 undocumented students who graduate each year from California high schools. Two identical bills are under scrutiny in

committees in the Senate and Assembly. One is authored by Sen. Gil Cedillo (D-Los Angeles) and the other by Assembly Speaker Fabian Núñez (D-Los Angeles).

The latest version of the California DREAM Act would make undocumented students eligible for scholarships and grants offered by California's community colleges, state universities and campuses in the University of California system. However, it does not include the competitive Cal Grants. Supporters say this version would largely exclude state funds. It would allow institutions to offer financial aid from funds they directly control that are fed through sources such as grants, tuition and private donations. Opponents contend that all funding is public if a public institution is handling it.

**Retirement:** Gov. Arnold Schwarzenegger threw his political heft behind a new proposal to open up the California Public Employees' Retirement System (CalPERS) to private-sector businesses and workers to encourage Californians to save more for retirement. "Having a financially secure retirement is part of the American Dream, and this bill will help that dream come true for millions of hardworking Californians and their families," the Governor said in a prepared statement.

The proposal to open CalPERS up to the private sector is contained in AB 2940 by Assembly Member Kevin de León (D-Los Angeles). It allows Californians whose employers do not offer retirement savings plans to put money into the California Employee Savings Program. Employers without retirement plans could also participate. The retirement plan, unlike 401(k) plans, could be taken by the worker from job to job. If the plan is approved by the Internal Revenue Service, CalPERS would administer it with fees paid by the account holders, at no expense to taxpayers.

De León ran through a litany of statistics to show how little workers put toward retirement, leaving them to subsist on Social Security payments. About 6 million California workers are employed at jobs that do not offer retirement savings plans such as 401(k)s or traditional pensions that guarantee an income during retirement. Without enough income, retirees rely more on government services, de León said. Workers now can put money into savings accounts such as IRAs, even if their employers do not offer 401(k)s. But de León said the Cal-PERS accounts would offer attractions not found in the commercial market. Fees would be lower, and CalPERS has a long track record of stellar investment returns. The program would allow workers to have money deducted from their paychecks automatically, making it more likely that they would participate.

## **REGIONAL**

**Proposed Climate Change Fee:** The Bay Area Air Quality Management District (BAAQMD) is considering charging businesses for their emissions of heat-trapping gases. If the fees are enacted, BAAQMD would be leapfrogging the debate in Sacramento and Washington, D.C., over how to regulate and control greenhouse gas emissions. The proposed fee, 4.4 cents per ton of carbon dioxide emitted, would impact businesses ranging from large petroleum refineries in the North Bay to small businesses throughout the Bay Area. If approved by BAAQMD, the fee would take effect July 1, 2008.

***Bay Area Rapid Transit District (BART):*** BART announced that continued growth in ridership should enable the agency to meet its preliminary budget for the next fiscal year. BART is predicting a 2.5 percent increase in daily weekday riders—from 348,000 in the current fiscal year to 364,000 in the new fiscal year. While this increase is less than past years, BART officials believe it is enough to offset the expected slow growth in sales and property tax revenues for this year.

**NOTE:** Also contributing to this report were Susan Lent with Akin, Gump, Strauss, Hauer & Feld; Mark Watts with California Strategies; and Scott Haywood, VTA's Policy and Community Relations Manager.

From: Board.Secretary  
Sent: Tuesday, April 22, 2008 2:18 PM  
To: Board.Secretary  
Cc: Burns, Michael  
Subject: Board of Directors' Workshop - April 25, 2008

Attachments: 04-25-08 Board Workshop Meeting.pdf

To VTA Board of Directors:

Attached, for your information, is a memorandum from the General Manager regarding the Board of Directors' Workshop scheduled on Friday, April 25th.

Thank you.

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Yolanda L. Cruz  
Assistant Board Secretary  
VTA Office of the Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891

## MEMORANDUM

**TO:** VTA Board of Directors

**FROM:** Michael T. Burns  
General Manager

**DATE:** April 22, 2008

**SUBJECT:** Board of Directors' Workshop

The Board of Directors' Workshop on Friday, April 25, 2008, begins at 9 a.m. at the **Silicon Valley Community Foundation in Mountain View**. Parking may be difficult and vehicles are subject to towing if in reserved spots marked by signs.

The workshop will focus on the update of the Measure A Revenue and Expenditure Plan. As VTA begins this process, the workshop will include discussion of principles that will guide us in the process as well as present the financial planning tool that VTA and its consultant have been working on this past year.

The workshop will have a timed agenda as follows:

|                               |                                                                                            |
|-------------------------------|--------------------------------------------------------------------------------------------|
| <b>9 a.m. - 9:45 a.m.</b>     | <b>Update on the 2000 Measure A Program</b>                                                |
| <b>9:45 a.m. - 10:45 a.m.</b> | <b>Proposed Policy Guidance</b>                                                            |
| <b>10:45 a.m. – noon</b>      | <b>Financial Planning Model and Updated Financial Analysis on June 2006 Measure A Plan</b> |

I look forward to working with the Board as we move through this important update process.

From: Board.Secretary  
Sent: Thursday, April 24, 2008 9:59 AM  
To: Board.Secretary  
Cc: Burns, Michael  
Subject: Advanced Farebox System Consultant Services - April 3, 2008 Board  
Agenda Item #12

Attachments: Response to Board Member Liccardo-Advanced Farebox.pdf

To VTA Board of Directors:

Attached is the response from the Chief Financial Officer to Board Member Liccardo regarding justification/rationale for Advanced Farebox System Consultant Services, item #12 of the April 3, 2008 Board Agenda.

Please contact Mr. Joseph Smith, our CFO, at (408) 321-5630 if you have any questions.

Thank you --

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Yolanda L. Cruz  
Assistant Board Secretary  
VTA Office of the Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891

## MEMORANDUM

Writer's Direct Telephone: (408) 321-5630

**TO:** Santa Clara Valley Transportation Authority  
Board of Directors

**FROM:** Joseph T. Smith  
Chief Financial Officer

**DATE:** April 23, 2008

**SUBJECT:** Advanced Farebox System Consultant Services

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At the April 4 Board of Directors meeting, Board Member Liccardo inquired about the rationale behind obtaining additional consultant services to assist VTA in the development of a Request for Proposal.

The rationale for use of consultant services with this project includes the following:

1. Fareboxes are no longer a stand alone device focused primarily on secure receipt of coins and bills. Fare collection is now based on networked electronic systems with comprehensive data reporting capabilities. The complexity of these systems requires consultant support for expert evaluation of options, costs, benefits, and implementation requirements.
2. VTA's current bus fare collection system was purchased 20 years ago. Since VTA does not replace fare systems frequently, it is especially important that we plan carefully to accommodate future changes in technology, the payments industry, transit operations, and fare policy. With the infrequency of fare collection procurements, it is not cost effective for VTA to maintain expertise on these systems on an on-going basis.
3. The proposed consultant contract provides for expenditures up to \$108,000 for needs assessment, development of a conceptual design for fare collection for the next 15 years, and documentation of functional requirements to support this design. The contract also authorizes approximately \$265,000 for engineering support of procurement, installation oversight, and robust acceptance testing to ensure that the system will work as designed once formally accepted by VTA. The initial amount for needs assessment and functional requirements is equal to approximately one percent of the total estimated cost for replacement of the fare collection system. The cost for engineering support during implementation is less than three percent of the total estimated system replacement cost. These levels of consultant expenditure represent a very small share of the total budget for the system, and are expected to yield benefits much greater than the cost by helping to ensure a system that meets VTA's needs, without wasted effort or expense.

4. VTA needs expert consultant assistance to analyze issues associated with integration of fareboxes with other electronic systems on board the bus, including VTA's Advanced Communication System (ACS), Automated Vehicle Location system (AVL), Automated Passenger Counters (APCs), and potentially TransLink, the regional transit smart card program. Integration of systems from different vendors has proven to be challenging for other transit operators, but there are clear operational benefits when this can be achieved.
5. The transit industry appears to be moving at increasing speed towards widespread acceptance of financial industry payment cards, including both credit and debit cards. Processes and devices to accept payment cards are well established for stationary vending machines but are still in "beta mode" for moving vehicles such as buses. Again, VTA will achieve significant benefit by securing assistance from a consultant that constantly keeps abreast with the latest developments and challenges in this area.

Should you have any questions or require further assistance, please feel free to contact me at (408) 321-5630 or Ali Hudda at (408) 546-7922.

c: Michael Burns  
Board Secretary's Office

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Should you have any questions or require further assistance, please feel free to contact me at (408) 321-5630 or Ali Hudda at (408) 546-7922.

c: Michael Burns  
Board Secretary's Office

To: VTA Board of Directors  
From: Kurt Evans, Government Affairs Manager  
Date: April 25, 2008  
Subject: General Information: Governor's FY 2009 Transportation Budget

For your information, I am attaching a summary of the Governor's FY 2009 budget submittal to the California State Legislature as it pertains to transportation.

## **MEMORANDUM**

**TO:** Santa Clara Valley Transportation Authority  
Board of Directors

**FROM:** Kurt Evans, Government Affairs Manager  
Santa Clara Valley Transportation Authority

**DATE:** April 25, 2008

**SUBJECT:** Summary of Governor's FY 2009 Transportation Budget

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### **BACKGROUND**

Acknowledging that California faces tough economic times, Gov. Arnold Schwarzenegger, in January 2008, proposed an austere budget for the next fiscal year that would take billions of dollars from public schools, shut down four dozen state parks, release tens of thousands of prisoners, and impose an across-the-board, 10 percent cut for most state agencies in order to close a multibillion-dollar General Fund deficit.

In the case of transportation, the Governor's proposed FY 2009 budget is generally better than what was expected, but it still poses significant problems for public transit. While his budget fully funds Proposition 42, provides for the repayment of outstanding Proposition 42 loans, and calls for appropriating a significant amount of Proposition 1B transportation infrastructure bond money, it also recommends shifting more than \$600 million in Public Transportation Account (PTA) revenues to offset bond payments and other expenses that have traditionally been covered by the General Fund. The bulk of this diversion is driven by SB 79, a new law that was enacted as part of the FY 2008 budget. This legislation, which is being legally challenged by the California Transit Association, scoops up 50 percent of all future PTA "spillover" revenues for the General Fund, thereby impacting the amount of money available for: (a) intercity rail and transit capital projects in the State Transportation Improvement Program (STIP); and (b) the State Transit Assistance Program (STA), the only state dollars available for transit operating purposes.

For the time being, the spotlight is on the Legislature as the Senate and Assembly Budget Subcommittees begin holding preliminary hearings on the various elements of the Governor's FY 2009 budget plan. However, most of the major decisions will not be made until after the Governor presents his revisions to the budget in mid-May.

Whether the Governor and Legislature will be able to come to an agreement on a spending plan in time for when the new fiscal year begins on July 1, 2008, is uncertain. Although a series of actions enacted in February of this year trimmed the budget deficit from \$16 billion to \$10

billion, difficult decisions still lie ahead. Democratic legislative leaders have declared that they are prepared to delay the budget if that is what it will take to get a tax increase, which they believe is the only reasonable solution to California's multibillion-dollar shortfall. Republicans, on the other hand, have repeatedly said they will not vote for any budget that includes new taxes. Almost every GOP lawmaker has signed a "Taxpayer Protection Pledge," vowing to "oppose and vote against any and all efforts to increase taxes." Although Republicans are the minority party in the Legislature, a budget cannot be approved unless at least eight GOP lawmakers sign off on it. In fact, Republicans used those votes last year to delay the passage of a budget by 51 days until Democrats and the Governor agreed to hundreds of millions of dollars in additional program cuts.

Caught in the middle is Gov. Schwarzenegger, who is urging Democrats and Republicans to begin working toward a solution now. While the budget he proposed in January calls for reducing spending by 10 percent for all General Fund programs and includes no new taxes, the Governor recently said he might be willing to support raising \$2.5 billion by closing some tax "loopholes"—i.e., decreasing or eliminating various tax breaks available to individuals and businesses.

The following summarizes the key transportation elements of the Governor's proposed FY 2009 budget.

## **PROPOSITION 42**

*Background:* In March 2002, the voters of California approved Proposition 42, which made the sales tax on gasoline a permanent funding source for transportation. These revenues were dedicated for the following purposes: (a) the STIP; (b) local streets and roads; (c) the PTA; and (d) the Traffic Congestion Relief Program (TCRP), which consists of 149 projects that were earmarked in legislation that was enacted in 2000.

While state transportation funding was expected to increase as a result of the passage of Proposition 42, the Governor and Legislature took advantage of a "loophole" in the ballot measure to divert a significant amount of these revenues to the General Fund. To curb this practice, California voters approved Proposition 1A in November 2006, a constitutional amendment that puts restrictions on when and how often Proposition 42 revenues can be loaned to the General Fund. It also requires any outstanding prior-year Proposition 42 loans to be repaid within a 10-year period and specifies an annual minimum amount that must be paid back in a given fiscal year.

*Governor's FY 2009 Budget Proposal:* In the Governor's FY 2009 budget, Proposition 42 is proposed to be fully funded at \$1.485 billion. Of this amount, the STIP would receive \$594 million (40 percent), local streets and roads \$594 million (40 percent), and the PTA \$297 million (20 percent). While the Governor did consider suspending Proposition 42 in the upcoming fiscal year to help with the General Fund problem, he did not include that recommendation in his January plan. In the final analysis, he deemed that "the state cannot achieve budgetary savings" with such an action since the amount would have to be repaid in three years with interest pursuant to Proposition 1A.

TCRP: FY 2008 was the last year of Proposition 42 allocations to the TCRP, meaning higher funding levels for the STIP, local streets and roads, and the PTA from now on. While no Proposition 42 dollars will flow to the TCRP in FY 2009, the program is expected to receive \$83 million as a repayment for loans that were made to the General Fund during FY 2004 and FY 2005. While this loan repayment was originally intended to be a General Fund obligation, the Governor's budget proposes that the PTA cover it instead.

After FY 2009, the TCRP is still owed roughly \$1 billion for repayment of outstanding loans to the General Fund. These loans are to be repaid to the TCRP through a combination of Proposition 1A and revenues generated from new gaming compacts that were negotiated by the Schwarzenegger Administration with five Native American tribes. Under current law, these revenues would trickle into the program over the next eight years as follows:

<u>Fiscal Year</u>	<u>Proposition 1A</u>	<u>Tribal Gaming</u>	<u>Total</u>
FY 2010	\$82.7 million	\$68 million	\$150.7 million
FY 2011	\$82.7 million	\$100 million	\$182.7 million
FY 2012	\$82.7 million	\$100 million	\$182.7 million
FY 2013	\$82.7 million	\$22 million	\$104.7 million
FY 2014	\$82.7 million	\$0	\$82.7 million
FY 2015	\$82.7 million	\$13 million	\$95.7 million
FY 2016	\$82.7 million	\$100 million	\$182.7 million
FY 2017	\$0	\$79 million	\$79 million

While legislation was enacted to allow the state to bond against tribal gaming revenues, this authority has been challenged in the courts. A final decision in this case has yet to be rendered.

Local Streets and Roads: The current fiscal year also is the last time that cities and counties will have to forego Proposition 42 funding for local streets and roads. In FY 2007 and FY 2008, cities and counties received no Proposition 42 money because of a requirement to repay prior-year loans that were provided in FY 2002 and FY 2003 for local streets and roads from the State Highway Account.

## **PROPOSITION 1B**

The Governor is proposing to appropriate \$4.7 billion in Proposition 1B transportation bond funding in FY 2009. This proposition, which calls for issuing \$20 billion in bonds over a 10-year period for roughly 14 different transportation programs, was approved by the voters of California in November 2006. The Governor's recommended \$4.7 billion for FY 2009 would come on the heels of \$4.2 billion that was appropriated for Proposition 1B programs in the current fiscal year.

Under the Governor's budget plan, the \$4.7 billion in Proposition 1B funding that is being recommended for FY 2009 is proposed to be allocated as follows:

- Corridor Mobility Improvement Account (CMIA) = \$1.547 billion.
- Public Transportation Modernization Improvement Account = \$350 million.
- STIP = \$1.186 billion.
- Trade Corridors Improvement Fund (TCIF) = \$500 million.
- State/Local Partnership Program = \$200 million.
- State Highway Operation and Protection Program (SHOPP) = \$216 million.
- Grade Separation Program = \$65 million.
- State Route 99 = \$108 million.
- Local Seismic Bridges = \$21 million.
- Intercity Rail = \$73 million.
- School Bus Retrofits = \$400,000.
- Air Quality = \$250 million.
- Transit Security = \$101 million.
- Port Security = \$58 million.

There are no recommended Proposition 1B appropriations for local streets and roads in FY 2009. The reason cited by the Schwarzenegger Administration is that the Department of Finance still is in the process of developing a template for administering \$950 million in Proposition 1B funding that was allocated to cities and counties in the current-year budget.

## **PUBLIC TRANSPORTATION ACCOUNT**

*PTA Revenues and Expenditures:* Revenues in the PTA are derived primarily from the sales tax on diesel fuel, the sales tax on 9 cents of the state excise tax on gasoline, Proposition 42, and the so-called “spillover.” On the expenditure side, 50 percent of all PTA dollars historically have gone to STA, while the remaining balance has been used to fund the following:

- Mass transit planning activities of Caltrans and the California Transportation Commission (CTC).
- Passenger rail safety responsibilities of the California Public Utilities Commission (CPUC).
- Operating costs of the state’s intercity rail system, including the Capitol Corridor trains.
- Rolling stock acquisition and other capital projects for intercity rail.
- California High-Speed Rail Authority.
- Transit capital projects programmed through the STIP process.

*Spillover:* The spillover has gained notoriety in recent years and probably deserves some explanation. It is a somewhat confusing concept with roughly a 35-year history. The spillover was established as part of the Transportation Development Act (TDA) of 1971. Signed into law by former Governor Ronald Reagan, TDA authorized the board of supervisors in each county to impose a ¼-cent sales tax to be collected by the state Board of Equalization and returned on a pro rata basis to each county that set up a Local Transportation Fund. The revenues deposited in a Local Transportation Fund could be used for mass transit, bicycle improvements, paratransit, and streets and roads in rural counties.

TDA was not a tax increase. In fact, in order to maintain the “tax burden” at the same level, the state reduced its own sales tax rate from 5 percent to 4¾ percent. To ensure that the General Fund would be “held harmless,” the state then extended its sales tax rate to gasoline, which previously had not been subject to this tax. Thus, TDA was intended to be revenue-neutral. However, that does not always happen. In some years, the sales tax on gasoline generates more revenues for the General Fund than the ¼-cent TDA sales tax. Under TDA, these excess revenues are supposed to “spill over” from the General Fund into the PTA. The rationale at the time was that TDA was enacted to benefit transportation, not the General Fund. Thus, the spillover provision was put in place so that when gasoline prices rise at a faster rate than the general economy, the revenues would accrue to mass transportation, rather than provide a windfall to the General Fund.

Therefore, every year, the Board of Equalization and the Department of Finance are required to make a theoretical calculation that compares the revenues estimated to be generated by a state sales tax rate of 5 percent on all goods except for gasoline versus the revenues generated by a state sales tax rate of 4¾ percent on all goods plus gasoline. If the amount estimated at 4¾ percent is greater than the amount estimated at 5 percent, then the difference is supposed to be transferred to the PTA. From there, the revenues are divided up 50 percent to STA and 50 percent primarily for transit capital projects programmed through the STIP process.

The spillover is not a stable or predictable source of funding. Sometimes the spillover calculation results in zero funds being transferred to the PTA. In fact, according to the Legislative Analyst’s Office, in 13 of the last 30 years, no spillover was generated. In other years, spillover revenues have fluctuated from a low of \$2 million to a high of \$867 million in FY 2008. Because there appears to be no end in sight to high gas prices, spillover revenues are projected to be significant for the foreseeable future. In fact, it generates more money than any other PTA funding source and, thus, has become a major battleground during the annual state budget fights. During the last several budget cycles, spillover became “low-hanging fruit,” ripe for the picking to help deal with General Fund deficits.

Recent Legislative Changes to the PTA: The FY 2008 state budget turned out to be disastrous for the PTA. Not only was \$1.259 billion in PTA revenues diverted to pay for General Fund expenditures, but lawmakers also enacted SB 79, a budget trailer bill that amended the Revenue and Taxation Code to restructure the account in the following ways:

- Starting in FY 2009, one-half of all spillover revenues would be deposited into a newly created Mass Transportation Fund to be used for paying debt service on transportation bonds and yellow school bus service. Previously, these expenditures were General Fund obligations.
- The remaining 50 percent of spillover revenues would be split two-thirds to STA and one-third to transit capital projects programmed through the STIP process.
- Transportation services for clients of regional occupational centers would become a permanent obligation of the PTA, rather than the General Fund.

In September 2007, the California Transit Association filed a lawsuit challenging most of the \$1.259 billion diversion, as well as the legality of SB 79. The case is currently pending in the appellate court.

Meanwhile, a second PTA bill, SB 717 (Perata), slipped out of the Legislature during the hectic final days of last year's regular session and was signed into law by the Governor. This measure restructured the allocation of the account's share of Proposition 42 dollars, pumping more money into STA at the expense of the STIP. Specifically, SB 717 changed the split between STA and transit capital projects programmed through the STIP process from 50-50 to 75-25.

*Governor's FY 2009 Budget Proposal:* Governor Schwarzenegger proposes to provide a total of \$1.365 billion to the PTA in FY 2009 as follows:

- \$455 million in spillover revenues.
- \$365 million from the sales tax on diesel fuel.
- \$69 million from the sales tax on 9 cents of the gas tax.
- \$297 million from Proposition 42.
- \$179 million from other miscellaneous revenue sources.

Of this amount, \$744 million would be allocated to STA.

Meanwhile, pursuant to last year's SB 79, \$600 million in PTA funding is proposed to be diverted to cover the following General Fund expenditures:

- Transportation general obligation bond debt service = \$372 million in spillover revenues.
- Proposition 1A loan repayment to the TCRP = \$83 million in spillover revenues.
- Regional occupational center transportation = \$141 million as an "off-the-top" expenditure.

## **HIGH-SPEED RAIL**

The Governor is recommending that a total of \$1.2 million be provided to the California High-Speed Rail Authority in the upcoming fiscal year. That amount is far less than the roughly \$140 million that the authority says it needs in FY 2009 to keep the state's high-speed rail project moving forward.

On a related note, Gov. Schwarzenegger has dropped a request that lawmakers remove the \$10 billion high-speed rail bond measure from the November 2008 ballot, but he wants the Assembly and Senate to pass legislation to tie the spending of the money to guarantees of support from the federal government and the private sector. Along these lines, Assembly Members Cathleen Galgiani (D-Tracy) and Fiona Ma (D-San Francisco) have introduced AB 3034. Meanwhile, officials with the High-Speed Rail Authority said they expect the state, federal government and private investors to each cover about a third of the \$40 billion cost to build the project, but noted that private companies would not commit until they see the state making a significant investment.

## **TRIBAL GAMING REVENUES**

The Governor's FY 2009 budget allocates \$100 million in revenues generated by renegotiated gaming compacts with several Native American tribes to the State Highway Account in order to repay prior-year loans to the General Fund. These funds are targeted for the SHOPP, which consists of rehabilitation, safety and seismic retrofit projects on the state highway system.