

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

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

## MEMORANDUM

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

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

**DATE:** July 21, 2008

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

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### **FEDERAL**

***Offshore Oil Drilling:*** President George W. Bush lifted the executive ban on offshore oil and gas drilling. However, the President's decision will not have an impact on soaring gas prices because nothing can happen until Congress lifts its own moratorium. Congress first banned offshore drilling in 1981, a move sought by environmentalists after a 1969 oil slick off the coast of Santa Barbara. Former President George H. W. Bush signed an executive ban in 1990, one that would remain in effect should Congress let its moratorium lapse. Former President Bill Clinton kept the executive moratorium in place.

With gasoline prices above \$4 a gallon in most parts of the country, the President and his Republican allies in Congress think Americans are less reluctant to allowing drilling offshore and in an Alaska wildlife refuge that environmentalists have fought successfully for decades to protect. Nearly half of the people surveyed by the Pew Research Center in late June said they now consider energy exploration and drilling more important than conservation, compared with a little over a third who felt that way only five months ago.

Congressional Democrats, however, have rejected the push to lift the drilling moratorium, accusing President Bush of hoping that the United States can drill its way out of the problem. They have called for tapping the Strategic Petroleum Reserve. Democrats also point out that there are 68 million acres of federal land and waters where oil and gas companies hold leases, but are not producing oil. They contend that new, protected areas should not be opened up for drilling if companies are not going after oil where they already have leases.

***FY 2009 Appropriations:*** Democrats controlling the House have called a halt to efforts to pass the 12 annual appropriations bills that would fund Cabinet agency budgets in FY 2009. Appropriations Committee Chairman David Obey (D-WI), who was blindsided last month by a GOP effort to transform an appropriations bill for education and health care programs into a vehicle to permit additional offshore oil drilling, has suspended his panel's work. Meanwhile, in the Senate, the Appropriations Committee is moving ahead with all 12 of its bills. But

Majority Leader Harry Reid (D-NV) has not said whether any of them will be come up on the Senate Floor before Election Day.

Right now, Congress is likely to pass a stopgap measure that would fund the federal government into next year. Democratic leaders in both the House and Senate have little desire to engage in a confrontation with President Bush during his last few months in office. The President has vowed to veto any spending bills that exceed his February budget request.

**Global Warming:** The Bush Administration rejected regulating greenhouse gases blamed for global warming, saying it would cause too many job losses. In a 588-page federal notice, the U.S. Environmental Protection Agency (EPA) made no finding on whether global warming poses a threat to people's health, reversing an earlier conclusion at the insistence of the White House and officially kicking any decision on a solution to the next president and Congress.

The White House rejected EPA's conclusion three weeks earlier that the 1970 Clean Air Act "can be both workable and effective for addressing global climate change." Instead, EPA now says that law is "ill-suited" for dealing with climate change. This contrasts with the tone of statements that President Bush made at the just-concluded G-8 summit of leading industrialized nations that took place in Japan. At that meeting, the United States joined other summit partners in embracing a policy declaration to seek a 50 percent reduction in global greenhouse gas emissions by 2050.

**Housing:** A mortgage rescue bill designed to help hundreds of thousands of struggling homeowners avoid foreclosure and get more affordable loans through the Federal Housing Administration (FHA) passed the Senate overwhelmingly, but it still faces a bumpy road. The 63-5 vote in the Senate reflected a keen interest by Democrats and Republicans to send election-year help to distressed homeowners. The legislation lets struggling homeowners keep their homes and get more affordable mortgages backed by FHA. Banks that agreed to take substantial losses on those distressed loans could avoid costly foreclosures and be assured of recovering at least some money. The new program would let FHA insure as much as \$300 billion in new mortgages, helping an estimated 400,000 homeowners. The legislation also includes a long-sought modernization of FHA, and creates a new regulator and tighter controls on Fannie Mae and Freddie Mac. In addition, it provides \$14.5 billion in housing tax breaks, including a credit of up to \$8,000 for first-time homebuyers.

However, the legislation still faces challenges, with the House planning to rewrite key details and the White House threatening a veto without major changes. House Democrats are divided over important elements of the plan, including limits on loans that FHA may insure, and that Fannie Mae and Freddie Mac may buy. The Senate measure sets them at \$625,000, while House leaders, including Speaker Nancy Pelosi (D-CA), want the cap as high as \$730,000. Another key point of dispute is the \$3.9 billion in funding in the Senate measure for buying and fixing foreclosed properties. The House's band of conservative "Blue Dog" Democrats oppose the money, arguing that it would swell the deficit unless paired with cuts or tax increases to cover the cost.

Key congressional players are bracing for intense negotiations to resolve the differences between the House and Senate. At the same time, they hope to smooth over disputes with the

White House, with an eye toward producing a bill that President Bush could sign later this month.

**Homeland Security:** President Bush signed a bill overhauling rules on secret government eavesdropping, completing a lengthy and bitter debate that pitted privacy and civil liberties concerns against the desire to prevent terrorist attacks. The action ended almost a year of wrangling between the House and Senate, Democrats and Republicans, and Congress and the White House over the President's warrantless wiretapping program that was initiated after the 9/11 terrorist attacks.

The fight over the legislation centered on one provision—shielding from civil lawsuits telecommunications companies that helped the federal government eavesdrop on American phone and computer lines without the permission or knowledge of a secret court that was created by the Foreign Intelligence Surveillance Act (FISA). The White House had threatened to veto the legislation unless it immunized companies like AT&T and Verizon Communications from wiretapping lawsuits. About 40 such lawsuits have been filed and are pending before a single federal district court. They center on allegations that the White House circumvented U.S. law by going around the FISA court, which was created 30 years ago to prevent the government from abusing its surveillance powers for political purposes, as was done in the Vietnam War and Watergate eras. The court is meant to approve all wiretaps placed inside the United States for intelligence-gathering purposes. The law has been interpreted to include international e-mail records stored on servers inside the United States.

Opponents of letting telecommunications companies off the hook unsuccessfully tried to amend the legislation to delay immunity until the full extent of the wiretapping program could be revealed by a government investigation. They argued that only in court could the full extent of the program be understood, and only a judge should decide whether the program broke the law.

## **STATE**

**State Budget:** Frustrated that the state has no budget more than two weeks into the fiscal year, Gov. Arnold Schwarzenegger said he may insist that legislative leaders begin marathon negotiating sessions until they secure a deal. For several weeks, Republicans and Democrats have met without the Governor in an unsuccessful effort to resolve a \$15.2 billion shortfall in the \$101 billion General Fund budget. The parties remain divided over whether the state should use tax increases to bridge the gap, as majority Democrats have proposed.

The Governor criticized one potential solution that has been part of the negotiations—raiding Proposition 42 transportation dollars and local government funding to help balance the budget. As much as \$3 billion is at stake, but the borrowing from these sources would be only a temporary fix for California's structurally unbalanced budget. Two voter-approved ballot measures call for any raids to be repaid, with interest, within three years. The Governor also continued to push for his lottery securitization plan, which he called "a gift from the future," and claimed that it would be fiscally irresponsible for Democrats to propose spending \$2.8 billion more on education than he proposed in his updated budget in May.

**Water:** Gov. Schwarzenegger and Sen. Dianne Feinstein (D-CA) unveiled a \$9.3 billion bond proposal to overhaul California's water infrastructure by expanding water storage, protecting the Sacramento-San Joaquin River Delta and promoting conservation projects across the state. The proposal, which is planned to be on the November ballot, was put together after Democrats in the Legislature balked last year at the Governor's proposal for a \$9 billion overhaul of the state water system that focused primarily on building three dams.

The Governor believes the new proposal contains enough significant changes to garner the two-thirds majority in both houses of the Democrat-controlled Legislature necessary to send it to voters. It would spend the \$9.3 billion in six areas:

- \$3 billion on water-storage projects.
- \$2 billion for regional water supply and conservation projects.
- \$1.9 billion for Sacramento-San Joaquin River Delta sustainability projects, such as levee repair.
- \$1.3 billion to protect ecosystems and watersheds, to remove invasive species and to restore watersheds damaged by fire.
- \$800 million to improve water quality, groundwater protection and small-community wastewater treatment.
- \$250 million for grants and loans for water recycling projects.

Money from the bond would be allocated by the California Water Commission, a panel created by former Gov. Edmund G. Brown in the 1960s that has been dormant for years.

Feinstein, who has long supported fixing the state's water infrastructure, jumped into the debate last year when she began talking to Gov. Schwarzenegger and legislative leaders. In February, she visited Sacramento to urge lawmakers to negotiate a bond deal.

**High-Speed Rail:** Lawmakers failed to compromise on changes to the \$9.9 billion high-speed rail bond that voters will take up in November. Republicans, Democrats and Gov. Schwarzenegger all agree that the current ballot measure lacks appropriate oversight language. But they have not agreed on how to fix the measure, which lawmakers originally crafted in 2002.

The current language in the bond measure prioritizes the route running from Los Angeles to San Francisco. AB 3034 (Galgiani) opens up other segments for first-round funding, such as lines to Sacramento and San Diego, so long as the spending does not have an "adverse impact" on the Los Angeles-to-San Francisco route. Such flexibility could give the supporters of the bond measure a wider voter audience, presumably making it easier to pass.

But the Senate failed to take up the bill because Republicans and Democrats could not agree on how to beef up the oversight. GOP opposition was led by Sen. Roy Ashburn (R-Bakersfield). He wants to abolish the California High Speed Rail Authority and consolidate all state rail projects in a newly created department that would have greater oversight by the Governor's Office. If no changes are made to AB 3034, Ashburn said he would try to delay

the bond measure, which already has been pushed off the ballot twice, in 2004 and 2006. But Democrats are not willing to get rid of the authority on such short notice.

## **REGIONAL**

**Joint Policy Committee (JPC)**: At its July 18 meeting, the JPC discussed the high occupancy toll (HOT) lane principles and draft investment plan for the Regional Transportation Plan (RTP). In addition, the committee discussed the California Global Warming Solutions Act and other Bay Area climate initiatives. The purpose of the JPC is to coordinate the regional planning efforts of the Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD), the Bay Conservation and Development Commission (BCDC), and the Metropolitan Transportation Commission (MTC). Among the JPC's current initiatives are focused growth, climate protection and the RTP.

**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.