

To: VTA Board of Directors
From: Kurt Evans, Government Affairs Manager
Date: July 29, 2008
Subject: General Information: Weekly Legislative Report

For your information, I am attaching the weekly legislative update for the week of July 21, 2008.

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: July 28, 2008

SUBJECT: Weekly Legislative Update: Week of July 21, 2008

FEDERAL

Energy: More oil production suddenly has become the mantra for Republican and Democratic lawmakers alike as voters continue to seethe over gasoline costing more than \$4 a gallon and look to the federal government to find a way to provide relief. However, lawmakers do not agree on where to drill, and if even they did, it still would not help motorists struggling with prices at the pump.

President George W. Bush continues to urge Congress to lift a moratorium that has blocked energy development over 80 percent of the country's coastal waters and to allow drilling in an Alaska wildlife refuge that environmentalists have fought successfully for decades to protect. A few months ago, drilling in the Arctic National Wildlife Refuge in the far northeastern corner of Alaska was considered a dead issue. The President has argued for drilling in the refuge since he first stepped into the White House, but opponents repeatedly have voted it down in the Senate. And the idea of opening the Atlantic and Pacific coasts or the eastern Gulf of Mexico off Florida's beaches to oil and gas companies has long been seen as a non-starter. Previous presidents, including George H.W. Bush and Bill Clinton, have sided against drilling in these waters, as has Congress for 27 years. Now that seems to be changing.

High crude oil and gasoline prices are affecting everything from food costs and summer vacations to the ability of volunteers to provide food to the homebound elderly. And that has prompted Republican demands for more domestic oil and natural gas production, even in areas once thought securely off limits for environmental reasons. Democrats counter that companies are not going after oil where they already have leases, so why open up new protected areas? They 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.

However, even if new areas were opened up for development, or companies were forced to pursue production in leases they currently hold, many energy experts believe there probably would be no impact on oil and gasoline prices in the near term.

Aviation: A bipartisan group of lawmakers are taking steps to end the Federal Aviation Administration's (FAA) sometimes cozy relationship with the U.S. airline industry. Led by House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN), several House Democrats and Republicans say they intend to introduce legislation to force changes that the FAA has been reluctant to make on its own. Their proposed bill would:

- Create an independent Aviation Safety Whistle-Blower Investigation Office within the FAA that would investigate safety complaints.
- Direct the FAA to stop treating airlines as customers and halt the practice of allowing airlines to choose which FAA employees will inspect their operations.
- Set a two-year "cooling-off period" before FAA inspectors or employees who supervise inspectors could go to work for an airline.
- Require the FAA to rotate key maintenance inspectors between airline oversight offices every five years.
- Require the FAA to review its database of safety compliance reports monthly in order to spot trends and take timely action.

With only a few months left on Congress' legislative calendar, Oberstar acknowledges that it would be difficult to enact the measure this year. But he said he wants to at least send FAA a strong message.

Economy: Democrats controlling Congress ratcheted up expectations for additional legislation to jump-start the sluggish U.S. economy. House Speaker Nancy Pelosi (D-CA) commented that while the recently issued tax rebate payments of \$600 to individuals and \$1,200 for married couples have helped the economy, more is necessary to offset the drag of higher gasoline prices and other costs. But President Bush cautioned in a White House news conference that lawmakers should "wait for the stimulus package to fully kick in" before passing another.

While the Democratic effort is still in its formative stages, most of the proposals mentioned were rejected by the President during negotiations that produced the earlier stimulus measure. New legislation could include additional tax rebates, heating and air conditioning subsidies for the poor, infrastructure projects, higher food stamp payments, and aid to the states.

Housing: President Bush dropped his opposition to legislation aimed at calming the chaotic housing market, paving the way for congressional approval. Under the bill, the federal government would be able to help struggling homeowners get new, cheaper loans, and to offer troubled mortgage giants Fannie Mae and Freddie Mac a cash infusion.

The Bush Administration and lawmakers from both parties teamed up to negotiate the compromise measure, which pairs top priorities of the Democratic leadership—federal help

for homeowners facing foreclosures, and \$3.9 billion for local governments to buy and redevelop foreclosed homes to prevent neighborhood blight—with the GOP goals of reining in Fannie Mae and Freddie Mac while reassuring the financial markets of their stability.

Specifically, the legislation allows the U.S. Treasury Department to extend Fannie Mae and Freddie Mac an unlimited line of credit and to buy an unspecified amount of their stock to prop them up. The two government-sponsored mortgage companies back or own \$5 trillion in U.S. mortgages, nearly half the nation's total. In addition, the bill lets hundreds of thousands of homeowners trapped in mortgages that they cannot afford on homes that have plummeted in value to escape foreclosure by refinancing into more affordable, fixed-rate loans backed by the Federal Housing Administration (FHA). Lenders would have to agree to take a substantial loss on the existing loans. In return, they would walk away with at least some payoff and avoid the often-costly foreclosure process.

Other major provisions of the measure are as follows:

- Creates a new regulator with tighter controls over Fannie Mae and Freddie Mac, and modernizes the FHA.
- Provides \$15 billion in housing tax breaks, including a credit of up to \$7,500 for first-time homebuyers who purchase homes between April 9, 2008, and July 1, 2009.
- Allows people who do not itemize their taxes to claim a \$500-\$1,000 deduction on their 2008 property taxes. This primarily benefits homeowners who have paid off their homes and cannot claim a deduction for mortgage interest.
- Sets a cap of \$625,000 on the loans that Fannie Mae and Freddie Mac may buy and that FHA may insure.

The White House, which initially denounced the legislation as too burdensome on the federal government and too risky for taxpayers, dropped most of its objections in recent weeks in search of a swift deal. The recent urgent request made by Treasury Secretary Henry Paulson to throw Fannie Mae and Freddie Mac a federal lifeline acted as a powerful locomotive for the deal.

Health Care: Congress rejected President Bush's veto of legislation protecting doctors from a 10.6 percent cut in their reimbursement rates when treating Medicare patients. The override vote in the House was a lopsided 383-41, easily meeting the two-thirds threshold needed to nullify the President's veto. About an hour later, the Senate voted to override, 70-26.

Lawmakers were under pressure from doctors and the elderly patients they serve to void the rate cut, which kicked in on July 1. The cut is based on a formula that establishes lower reimbursement rates when Medicare spending levels exceed established targets. Instead of a cut, the legislation keeps Medicare rates for doctors where they are for the rest of 2008 and would increase them by 1.1 percent in 2009. The bill generates the revenue necessary to pay

doctors more by reducing spending on private health insurance plans. Those plans serve more than 9 million people through the Medicare Advantage Program.

STATE

State Budget: With the state budget overdue and California's cash flow drying up, Gov. Arnold Schwarzenegger said he expects Democrats and Republicans in the Legislature to reach a compromise quickly and to bring him a spending plan by August 1. The Governor also raised the bar for negotiations by stating that he would not agree to any budget deal that fails to include long-term reforms to help California ride out rocky economic times.

The Governor continued to chastise legislative leaders for not moving more swiftly to address the state's \$15.2 billion shortfall. Lawmakers missed the June 15 constitutional deadline to pass a budget, and California is now more than three weeks into the new fiscal year without a spending plan. The Governor has hosted several meetings with legislative leaders and said everyone's ideas are up for discussion. But Republicans have remained steadfast against any tax increases, while Democrats have held the line on further spending cuts, particularly for education and health care, and have proposed a package of new taxes to address the deficit. All have said they are working to have a budget done by August 1. If that does not happen, the state will have to start negotiating expensive loans to address a cash shortage that will affect state coffers by the end of September.

State Employees: Gov. Schwarzenegger plans to sign an executive order to temporarily reduce pay for 200,000 state workers to the federal minimum wage of \$6.55 per hour to preserve cash until lawmakers reach a budget deal. The Governor's order also would terminate about 22,000 retired annuitants, temporary workers and seasonal employees, as well as impose a hard freeze to block the hiring of roughly 1,700 new employees per month. The order would take effect for the August pay period and envisions that state workers would receive their back pay in full when a budget is signed. The move would save roughly \$1 billion in cash per month, depending on how many employees are exempt under federal law because they work in health and safety field.

Democratic legislators and state employee unions immediately denounced the Governor's plan as a political ploy designed to pressure lawmakers into passing a budget. And Democratic Controller John Chiang, who pays the state's bills, said he would ignore the order and continue paying full salaries, likely forcing a court battle.

Gov. Schwarzenegger believes that without a budget, the state could run out of money by mid-September because of a soft economy and low reserves. Given the state's low credit rating, he noted that borrowing from Wall Street without a budget could cost California hundreds of millions of dollars in interest. However, Chiang questioned the Governor's calculations, stating that he believes California still has enough cash to make it through September without cutting state employee salaries.

REGIONAL

Metropolitan Transportation Commission (MTC): At its July 23 meeting, MTC approved an investment program for the financially constrained element of the Transportation 2035 Plan, as well as a set of objectives that MTC and congestion management agency (CMA) staffs have developed to guide the implementation of a regional high-occupancy toll (HOT) lane network in the Bay Area.

Dumbarton Policy Advisory Board (PAB): At its July 22 meeting, the PAB decided to oppose MTC's draft Strategic Plan for the Regional Transit Expansion Program. The Strategic Plan contains a series of programming actions designed to deliver projects contained in the expansion program that are ready to go. Among other things, it recommends shifting \$91 million in Regional Measure 2 (RM 2) funds currently programmed to the Dumbarton Rail Project to the BART Warm Springs Extension Project. In exchange, the Dumbarton Rail Project would receive \$91 million in future-year Alameda County Regional Transportation Improvement Program (RTIP) funds.

The PAB requested that MTC do the following: (1) ensure that Dumbarton funding will be available when needed in 2010-2011, and that this funding will come from a secure and reliable source, such as RM 2; (2) use MTC regional express bus funding to purchase new vehicles and use \$5.5 million in annual RM 2 operating dollars to enhance bus service in the Dumbarton Bridge Corridor prior to implementation of the rail project in order to build the market for transit; (3) utilize currently available funding for acquisition of needed railroad rights-of-way for the Dumbarton Rail Project; and (4) seek additional funding from federal, state and local sources to achieve a fully funded project as promised in the Regional Transit Expansion Program.

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, July 29, 2008 10:54 AM
To: Board.Secretary
Cc: Burns, Michael
Subject: Procedure for Placing Items for Board Agenda

To VTA Board of Directors:

Attached is a memorandum from the Office of the Board Secretary in response to the request of Alternate Board Member David Cortese for an informational memo regarding the procedure for placing items on the Board Agenda.

If you have any questions, please feel free to contact me at (408) 321.5669.

Thank you.

Yolanda L. Cruz
Assistant Board Secretary
Voice: 408.321.5669 Fax: 408.955.0895

MEMORANDUM

Writer's Direct Telephone: (408) 321-5669

TO: Santa Clara Valley Transportation Authority
Board of Directors

FROM: Yolanda L. Cruz
Assistant Board Secretary

DATE: July 29, 2008

SUBJECT: Procedure for Placing Items for Board Agenda

At the July 17 Committee of the Whole Meeting (COW), Alternate Board Member David Cortese requested an informational memo regarding the procedure for placing items on the Board Agenda. This memo is in response to his request for an explanation.

The process of placing items on the agenda is discussed in the VTA Board of Directors Rules of Procedure in Section 4.5, which states that - *"The Secretary or his or her designee will prepare the agenda for the Board meeting in consultation with the General Manager, General Counsel and the Chairperson. The agenda will include matters to be discussed in closed session and matters specifically requested for consideration by any Board member."*

In practice, staff has placed items on the agenda when requested by Board Members through the Chair or the General Manager. Such items are added to the Workplan for the Board of Directors' Meetings and depending on the complexity of the request, scheduled as soon as practicable.

We apologize that the request to support the Capitol Expressway Light Rail Extension Project, from the June 12th Downtown East Valley Policy Advisory Board (DTEV PAB) meeting was not placed on the agenda for COW meeting as Alternate Director Cortese requested on June 12th. This was due to a misunderstanding by the staff members present at the DTEV PAB meeting. The item is scheduled to be heard at the August 7th Board of Directors Meeting.

If you have any questions or require further assistance, please feel free to contact me at (408) 321-5669.

Thank you.

cc: Michael Burns

From: Board.Secretary
Sent: Thursday, July 31, 2008 9:36 AM
To: Board.Secretary
Cc: Burns, Michael
Subject: State Audit

To VTA Board of Directors:

On July 31, 2008, the Bureau of State Audits (BSA) released its report on the Santa Clara Valley Transportation Authority (VTA). This independent state audit was requested by Assembly Members Sally Lieber and Jim Beall, and Senator Elaine Alquist. A copy of the BSA report and VTA's detailed response can be accessed through the following link: www.bsa.ca.gov. The VTA audit number is 2007-129.

In general, the BSA report validates the recommendations contained in the Organizational and Financial Assessment that was performed by the Hay Group a year ago, reaffirms the efforts that VTA has undertaken so far to advance them, and recommends that we continue with implementation. In addition, the BSA report outlines its own recommendations that build upon the spirit of the Hay Group's assessment and provide a framework for how we can make some of our existing practices more effective and efficient.

Worth highlighting in the BSA report are the following:

- The BSA report did not recommend significant changes to VTA's governance, but rather endorsed the incremental changes that are already being pursued by the Board of Directors.
- BSA found that VTA's financial reporting and planning generally meet best practices in government finance, and acknowledged that VTA has made significant strides in this regard since the release of the Hay Group assessment a year ago.
- BSA found that VTA's project planning practices generally conform to best practices, but noted that there is room for improving procedures for estimating project costs and revenues, as well as project monitoring.

I concur with the BSA's recommendations and believe they will make VTA an even better organization. In fact, as you will see from our detailed response to the Bureau's report, we have identified specific actions and timelines for following up on its recommendations.

Finally, I want to thank the BSA team. Given that VTA is a complex, multi-faceted organization, they had a very challenging task, and handled it in a professional and diligent manner.

Sincerely,
Michael T. Burns
General Manager

From: Board.Secretary
Sent: Friday, August 01, 2008 3:18 PM
To: Board.Secretary
Cc: Burns, Michael
Subject: Busting a Budget Trial Balloon

To VTA Board of Directors:

I am forwarding you an email from State Senate President Pro Tem Don Perata regarding Prop. 42.

Thank you.

Yolanda L. Cruz
Assistant Board Secretary
Voice: 408.321.5669 Fax: 408.955.0895

From: State Senate President Don Perata
Sent: Wednesday, July 30, 2008 5:02 PM
To: Board.Secretary
Subject: Busting a Budget Trial Balloon

July 30, 2008

Dear Friends:

It's trial balloon time in Sacramento – that crazy point in state budget negotiations when all sorts of fanciful notions are floated as “solutions” to the state's budget crisis.

The latest example is the idea of raiding Prop. 42 transportation funds to help close the budget gap.

I have a one-word answer: NO!

One thing we've done right in California is work together to rebuild our long-neglected infrastructure. Thanks to our efforts, we're building the roads, schools, housing and flood control projects we're going to need to turn California's economy around – and keep people working until it does.

I see Prop. 42 – and Prop. 1A – as key components in these efforts. Raiding these funds now would break faith with voters who joined us in supporting the plan to rebuild California, and slow down one of the state's best engines for economic growth.

We need a long-term solution to put California back on sound fiscal ground – not more short-term borrowing and short-sided thinking. I can't stop people from floating trial balloons in Sacramento, but I can sure shoot this one down before it gets very far.

Sincerely,

Don Perata
Senate President pro Tem