

From: Board.Secretary  
Sent: Tuesday, October 14, 2008 2:19 PM  
To: Board.Secretary  
Cc: Burns, Michael  
Subject: Weekly Legislative Report

To VTA Board of Directors:

Attached is the weekly legislative update for the week of October 6, 2008.

Thank you.

Yolanda L. Cruz  
Assistant Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891

## MEMORANDUM

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

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

**DATE:** October 13, 2008

**SUBJECT:** Weekly Legislative Update: Week of October 6, 2008

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### **FEDERAL**

***Financial Markets:*** As the global markets plunged, President George W. Bush said “it’s going to take awhile” for the federal government’s \$700 billion financial rescue plan to bolster the troubled U.S. economy. The President noted that the purpose of the package was to unlock the nation’s credit freeze “to get money moving again.” But he added, “We don’t want to rush into the situation and have the program not be effective.” President Bush’s comments came as his top economic advisers pledged to work with their counterparts around the world to restore confidence and stability to financial markets roiled by tight credit and worries about a global economic slowdown. The President said his administration plans to quickly implement the expanded authorities granted to federal regulators by the \$700 billion rescue package.

***Economy:*** Federal Reserve Chairman Ben Bernanke suggested that the central bank might have to cut interest rates to shore up a rapidly deteriorating economy and address a credit crisis of “historic dimensions.” In a speech to the National Association for Business Economics, Bernanke commented that in light of a worsening economic picture and somewhat better inflation readings, “the Federal Reserve will need to consider whether the current stance of monetary policy remains appropriate.” Bernanke also warned that the economic downturn could last some time, with businesses and consumers unable to get needed credit.

The central bank has held its target for a key interest rate steady at 2 percent since the spring. In recent months, Fed officials have been in a bind, caught between slowing growth and rapidly rising inflation. In the past several weeks, however, oil and other commodity prices have fallen dramatically, while unemployment has spiked, consumer spending has slowed, and the credit crisis has spread incessantly despite numerous Fed efforts to soothe the markets, including providing hundreds of billions of dollars of low-interest loans.

Bernanke noted that the economy had shown signs of weakening even before the recent increase in financial market tensions. While he said falling home prices and sales continue to be the primary problem in both the real economy and financial markets, he pointed out that “the

slowdown in economic activity has spread outside the housing sector.” According to Bernanke, rising joblessness and sluggish wages have forced consumer spending to contract significantly since May, and business investment spending is under pressure. He noted that even households with good credit histories are now facing difficulties in obtaining mortgage loans or home equity lines of credit. In addition, banks are reducing credit card limits, and denial rates on automobile loan applications are rising.

The Fed chairman said the \$700 billion financial rescue package should, over time, stabilize the financial markets, and help banks and other lenders raise needed capital. “These are momentous steps, but they are being taken to address a problem of historic dimensions,” Bernanke commented. “The Congress and the administration chose to act at a moment of great stress, but one at which the great majority of financial institutions have sufficient capital and liquidity to return to their critical function of providing new credit for our economy.”

**Federal Budget:** The federal budget deficit hit a new record in the just-completed fiscal year under the latest estimates from the Congressional Budget Office (CBO). The record \$438 billion shortfall for FY 2008 is up from \$162 billion posted last year. The previous record of \$413 billion occurred in FY 2004. The CBO reported that with the economy in a slump, revenues dropped by almost 2 percent. Corporate income receipts fell by \$65 billion, or nearly 18 percent. At the same time, individual income tax revenues declined by 1.6 percent.

The deficit is virtually certain to balloon even higher next year as the federal government sorts out the financial crisis and taps the \$700 billion authorized by Congress to buy distressed mortgage-related securities. The next president will probably have to scale back campaign pledges as he inherits a likely deficit for FY 2009 exceeding \$500 billion. But neither GOP standard-bearer John McCain nor Democratic nominee Barack Obama has given much detail regarding what promises they would not be able to keep.

President Bush inherited a budget that was seen as producing endless huge surpluses after four straight years in positive territory. That stretch of surpluses represented a period when the nation’s finances were bolstered by a 10-year period of uninterrupted economic growth, the longest expansion in U.S. history. However, a recession in March 2001 and government spending to fight the war on terrorism helped push the deficit to its previous record in FY 2004. In addition, major rounds of tax cuts enacted in FY 2001 and FY 2003 contributed to the deficit, and renewing them—and their \$200 billion-plus annual cost—when they expire at the end of FY 2010 would make it extremely difficult to balance the budget anytime soon.

**Mental Health:** A landmark law requiring employers to provide mental health insurance benefits comparable to their medical coverage cleared Congress and was signed into law by President Bush. The mental health “parity” bill was tacked onto the \$700 billion financial rescue package. It provides parity in insurance benefits for 113 million Americans. Employers with 50 workers or less are exempted.

The new law bars insurance plans from setting higher copays or deductibles for mental health or substance abuse treatment than for medical care. Lower benefit limits also would be illegal, along with caps on the number of outpatient therapy sessions or inpatient treatment days. In

addition, employees would have to be covered for out-of-network mental health care if their plan includes out-of-network medical coverage.

## **STATE**

***State Budget:*** With the ink barely dry on the current state budget, turmoil in the financial markets and flagging tax revenues forced Gov. Arnold Schwarzenegger and legislative leaders to reopen talks on the spending blueprint that he recently signed into law. They discussed the possibility of calling lawmakers back to Sacramento for a special session, as the state's current spending plan may already be out of balance due to falling revenues. They also talked about whether California will need a \$7 billion short-term loan, a normal borrowing maneuver that has become problematic in the wake of recent tight credit markets. Further problems arose when U.S. District Judge Thelton Henderson said he expects the state to pay \$8 billion to build seven new inmate medical facilities and upgrade other units, adding more pressure to the budget situation.

California relies heavily on personal income and sales taxes to generate revenues, and state officials fear that both sources are significantly weaker than predicted when they crafted the current budget. To deal with lower revenues, the Governor could declare a budget-related special session as he did in January, forcing lawmakers to consider another round of spending cuts, accounting maneuvers or tax increases to bridge the gap.

Senate President Pro Tem Don Perata (D-Oakland) estimated that the state will face a \$3 billion to \$5 billion deficit this fiscal year without corrective action. He further predicted that California will have to deal with a \$15 billion to \$18 billion budget shortfall in FY 2010, comparable to the \$15.2 billion deficit lawmakers faced this past year. Meanwhile, Controller John Chiang announced that California has taken in \$1.1 billion less through the first quarter than state officials projected earlier this year.

Gov. Schwarzenegger signed the tardiest budget in state history just over two weeks ago, a \$103.4 billion spending plan that assumed stronger revenues than the state is currently taking in. Lawmakers relied heavily on accounting maneuvers and cuts to state services to break a nearly three-month deadlock. Majority-party Democrats and the Governor called for new taxes, but they pulled back those demands when it became clear that Republicans would not agree to them. In fact, GOP legislative leaders said they remain even more opposed to tax increases now than during last month's budget negotiations. They suggested that higher taxes would serve as a further drag on a struggling economy.

***Pension Funds:*** With California's treasury emptying out faster than the cash is trickling in, state officials scrambling to pay the bills have set their sights on new lending sources: California's two biggest public pension funds. Sen. Dean Florez (D-Shafter) has proposed that the California Public Employees' Retirement System (CalPERS) purchase the state's looming debt. The money would keep California operating—including paying state employee payroll and funding schools—into next year. Florez outlined the plan in a letter to Treasurer Bill Lockyer, who said he would also float the idea to the California State Teachers' Retirement System (CalSTRS). Lockyer sits on the boards of both funds.

Institutional buyers usually bridge California's end-of-year operating expenses by purchasing revenue anticipation notes (RANs). But with investors flocking to conservative investments, Lockyer may have a tough time finding buyers for the \$7 billion in RANs that the state plans to offer for sale.

It is not clear whether CalPERS and CalSTRS will step into the breach. The financial turmoil has wiped out tens of billions of dollars in investments for both funds. CalPERS, the nation's largest public pension fund with \$211 billion in assets, has lost about 11 percent of its value since the end of June. CalSTRS currently has \$158.7 billion in assets, which represents a 6 percent loss between June 30 and August 31.

**State Legislation:** Democrats were angry after Gov. Schwarzenegger finished vetoing 35 percent of the bills on his desk, a modern record. They were particularly incensed that the Governor issued a generic message for 136 of his 415 vetoes in which he blamed the state's 85-day budget delay.

Gov. Schwarzenegger's unusual veto approach capped a divisive two months in which he turned combative with lawmakers as budget talks broke down. The Governor drew their ire in late July after signing an executive order that laid off 10,000 temporary and part-time state workers, and sought to reduce 200,000 others to the federal minimum wage until the budget was signed. He vowed in August to veto every bill until lawmakers passed the state budget, and he threatened to impose a historic budget veto when lawmakers delivered their first spending plan in mid-September.

The Legislature withheld its bills until it passed the final budget 11 days before the September 30 bill-signing deadline, reducing the Governor's usual month-long period to review them. But the Governor's legislative aides and various state agency officials follow bills and negotiate with lawmakers throughout the year. For that reason, legislators questioned his argument that the late budget forced him to veto a larger number of bills. But the Governor's Office said sufficient time was needed to present all of the bills to the Governor, a process that did not begin until after the budget negotiations were over. His aides commented that individual bills took as long as 10 hours to discuss, and it was the Governor's call to use a standard veto message whenever he determined bills were unnecessary.

**Housing:** Gov. Schwarzenegger vetoed a proposal that would have imposed tough restrictions on mortgage brokers, such as banning exotic loans to risky borrowers that cause balances to grow rather than shrink over time. His veto of AB 1830 (Lieu) blocked what consumer groups considered the most significant housing-related measure on his desk. It was one of numerous bills this session that responded to California's battered housing market, whose problems have been partly blamed on irresponsible lending practices. The Governor, in his veto message, said AB 1830 had laudable goals but it "overreaches and may have unintended consequences."

Authored by Assembly Member Ted Lieu (D-Torrance), the legislation would have specified that mortgage brokers have a "fiduciary duty" to borrowers, exposing brokers to greater liability for violating that duty. It also would have prohibited brokers from steering borrowers toward

higher-risk loans than they would qualify for based on their income and credit. In addition, it would have curtailed incentives tied to riskier loan products and capped prepayment penalties. Finally, AB 1830 would have banned risky borrowers from obtaining “negative amortization” loans, agreements that offer low initial payments but increase the principal balance over time, making them difficult to pay off.

In his veto message, Gov. Schwarzenegger wrote that AB 1830 would have applied only to state-regulated firms and not those regulated by federal agencies, putting mortgage brokers in California at a competitive disadvantage to larger banking institutions. He also was concerned that the legislation would lead to trivial lawsuits because it would have allowed for a private right of action, but would not have allowed defendants to recover their attorney’s fees.

**Consumer Products:** A two-bill package to give state regulators broad authority over potentially dangerous chemicals in consumer products was signed by Gov. Schwarzenegger, who touted the legislation as the “most comprehensive Green Chemistry program ever established.” AB 1879 (Feuer and Huffman) and SB 509 (Simitian) were negotiated during the final days of the legislative session amid fighting over separate bills targeting chemicals in fast food containers, microwave popcorn bags and some plastic baby bottles. Together, they require the state to assume more responsibility for identifying, analyzing and regulating chemicals in consumer products. The goal is to create a science-based process for evaluating potentially harmful chemicals in consumer products rather than making such issues a political football, sparking one-chemical-at-a-time legislation.

AB 1879 gives the Department of Toxic Substances Control until January 2011 to establish a science-based process to identify and evaluate problem chemicals in their manufacture, use and ultimate disposal. It also provides the department with the authority to regulate the chemicals, including banning their use in California. A “Green Ribbon” panel of scientists would advise the department. Meanwhile, SB 509 creates a state-run web site where consumers could search for information on chemical hazards.

## **REGIONAL**

**Metropolitan Transportation Commission:** At its October 10 meeting, MTC’s Planning Committee held an extensive discussion regarding the implementation of the regional high-occupancy toll (HOT) lane network as proposed in the Regional Transportation Plan (RTP). Currently, an executive committee comprised of MTC, Caltrans and the congestion management agency (CMA) directors are holding meetings to address issues such as governance, financing, construction, and revenues. Several MTC commissioners determined that there is a need to hear directly from the CMA directors on the progress of these meetings, not just MTC staff. They directed MTC staff to arrange a meeting in the near future for the Planning Committee and CMA directors to discuss the outstanding issues in greater detail.

**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, October 14, 2008 4:22 PM  
To: Board.Secretary  
Cc: Burns, Michael  
Subject: Ridership for September 2008

To VTA Board of Directors:

Attached is the Ridership Report for September 2008.

Thank you.

Yolanda L. Cruz  
Assistant Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891

## MEMORANDUM

Writer's Direct Telephone: (408) 321-7005

**TO:** VTA Board of Directors

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

**FROM:** Donald A. Smith, Jr.  
Chief Operating Officer

**DATE:** October 10, 2008

**SUBJECT:** Ridership for September 2008

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September 2008 total monthly system ridership for bus and light rail was 4,110,484, an increase of 10.4% over September 2007. The average weekday system ridership for September 2008 was 6.1% more than in September 2007 and the highest since September 2002. September 2008 had two more weekdays compared to September 2007.

Average weekday bus ridership for September 2008 was 124,280, a 4.4% increase compared to September 2007. Average Saturday and average Sunday ridership increased 3.6% and 6.7%, respectively.

Light rail recorded an average weekday ridership of 38,422 for September 2008, an increase of 12.1% compared to September 2007. This is the highest average weekday ridership in VTA history. Average Saturday and Sunday ridership increased by 9.8% and 0.1%, respectively.

<b>Ridership</b>	<b>September 2008</b>	<b>September 2007</b>	<b>Percent Change</b>
<b>SYSTEM BOARDINGS</b>	4,110,484	3,722,616	10.4%
System Average Weekday	162,702	153,356	6.1%
System Average Saturday	85,192	81,069	5.1%
System Average Sunday / Holiday	70,598	67,252	5.0%
<b>BUS BOARDINGS</b>	3,130,285	2,868,796	9.1%
Bus Average Weekday	124,280	119,088	4.4%
Bus Average Saturday	64,080	61,849	3.6%
Bus Average Sunday / Holiday	52,817	49,480	6.7%
<b>LIGHT RAIL BOARDINGS</b>	980,199	853,820	14.8%
Light Rail Average Weekday	38,422	34,268	12.1%
Light Rail Average Saturday	21,112	19,220	9.8%
Light Rail Average Sunday / Holiday	17,781	17,772	0.1%

From: Board.Secretary  
Sent: Tuesday, October 14, 2008 5:19 PM  
To: Board.Secretary  
Cc: Burns, Michael  
Subject: Summary of Final FY 2009 State Budget

To VTA Board of Directors:

Attached is a memorandum from the Government Affairs Manager regarding the Summary of the Final FY 2009 State Budget.

Thank you.

Yolanda L. Cruz  
Assistant Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891

## **MEMORANDUM**

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

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

**DATE:** October 10, 2008

**SUBJECT:** Summary of Final FY 2009 State Budget

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### **BACKGROUND**

2008 probably will be best remembered as the year in which lawmakers set the record for the longest budget impasse in California history. For months, Democrats and Republicans in the Legislature, and Gov. Arnold Schwarzenegger were at odds over a number of key policy questions related to the development of a spending plan for the fiscal year that began on July 1. Those questions included:

1. Should the projected \$15.2 billion General Fund deficit be partially addressed through tax increases?
2. How should a spending cap be put in place and how should the state's reserve fund be beefed up in order to control expenditures when the economy is strong, and to ensure that adequate money has been put aside to avoid huge budget shortfalls when the economy is sluggish?
3. To what extent should the budget deficit be resolved through spending cuts to state programs?
4. Should money be borrowed from local governments, transportation and other special funds to shore up the General Fund?
5. To what extent should the California Lottery be modernized, and should additional revenues be generated for the General Fund by bonding against the lottery's future proceeds?

In an attempt to break the deadlock, Gov. Schwarzenegger, in mid-August, released a compromise budget proposal that called for a temporary 1 percent boost to the state sales tax. In addition, he backed off his demand for a strict spending cap and instead proposed an expanded budget reserve with restrictions on when it could be tapped. The Governor also renewed his

push to borrow against future proceeds from an expanded lottery, and he provided a list of \$2 billion in additional spending cuts beyond those outlined earlier by Democratic lawmakers.

After a number of false starts, the Legislature finally responded on September 16 by passing a budget plan that was cobbled together privately by Assembly and Senate leaders without the involvement of Gov. Schwarzenegger. It did not include the Governor's temporary sales tax increase, but rather attempted to address the daunting shortfall in the following ways: (a) \$7.1 billion in spending cuts; (b) \$9.3 billion in additional revenues generated by accelerating the collection of income taxes, shifting or borrowing money from special funds, and employing a variety of accounting "gimmicks;" and (c) \$1.2 billion in reserves. The Governor was not amused and vowed to veto the plan unless certain changes were made. While he leveled harsh criticisms against numerous aspects of the plan, the Governor was most upset that lawmakers rejected his plea for stiffer rules for when revenues could be withdrawn from the budget reserve.

Just when it appeared that the Legislature's budget plan would unravel, Assembly and Senate leaders backed down and accepted Gov. Schwarzenegger's suggested fixes. Finally, on September 23, a record 85 days into the new fiscal year, the Governor signed the budget into law in his office with little fanfare, but not before vetoing \$510 million in spending approved by the Legislature in order to boost the reserve to \$1.7 billion. In avoiding the more typical celebratory signing ceremony under the Capitol's rotunda, the Governor commented, "Why I didn't feel like celebrating in the rotunda is because it's inexcusable to have a budget that's three months late. And it is three months late because both Democrats and Republicans in the Legislature stayed in their ideological corners and refused to come out."

The budget turned out to be a mixed bag for transportation. On the positive side, the transportation community staved off a potential suspension of Proposition 42 and can look forward to a healthy appropriation of Proposition 1B bond funds for the second straight year. On the negative side, the Public Transportation Account (PTA) took it on the chin once again, losing 71 percent of its revenues to cover General Fund obligations.

The following summarizes the key transportation elements of the 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 State Transportation Improvement Program (STIP); (b) local streets and roads; (c) the Public Transportation Account (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, Govs. Schwarzenegger and Gray Davis, 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 (no later than June 30, 2016), with an annual payment of no less than one-tenth of the total amount owed.

Final FY 2009 Budget: While Gov. Schwarzenegger and lawmakers toyed with the notion of suspending Proposition 42 to address the \$15.2 billion General Fund deficit, in the end it was fully funded at \$1.43 billion. Of this amount, the STIP will receive \$572 million (40 percent), local streets and roads \$572 million (40 percent), and the PTA \$286 million (20 percent). According to figures compiled by MTC, local jurisdictions in Santa Clara County will receive a total of \$24.4 million in Proposition 42 funds in FY 2009 for their local street/road maintenance needs as follows:

County = \$8.869 million	Monte Sereno = \$32,000
Campbell = \$362,000	Morgan Hill = \$349,000
Cupertino = \$502,000	Mountain View = \$666,000
Gilroy = \$452,000	Palo Alto = \$570,000
Los Altos = \$256,000	San Jose = \$8.858 million
Los Altos Hills = \$78,000	Santa Clara = \$1.039 million
Los Gatos = \$268,000	Sunnyvale = \$1.24 million
Milpitas = \$606,000	

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 will 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 enacted budget requires the PTA to 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 payments and revenues generated from new gaming compacts that were negotiated by the Schwarzenegger Administration with five Native American tribes. Under current law, these revenues are expected to trickle into the program over the next eight fiscal 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

However, given that project sponsors have indicated that they will need to draw down their TCRP shares over the next three to four years to avoid delays to their projects, the program is currently suffering from a severe cash-flow problem. While legislation was enacted to allow the state to bond against tribal gaming revenues, this authority has been challenged in the courts, and a final decision in this case has yet to be rendered. If the court ruling is favorable, then the state could issue bonds immediately to address the near-term, cash-flow problem plaguing the TCRP. In the meantime, the California Transportation Commission (CTC), at its September 2008 meeting, adopted a TCRP Allocation Plan, which includes a payment schedule for the remaining \$239 million for the BART Extension to Silicon Valley. Under this plan, the BART Project would receive roughly \$40 million a year in TCRP allocations over six years, beginning in FY 2010.

## **PROPOSITION 1B**

Proposition 1B calls for issuing \$19.925 billion in bonds over a 10-year period for roughly 14 different transportation programs. This bond measure was approved by the voters of California in November 2006. The enacted budget appropriates \$4.3 billion in Proposition 1B funding in FY 2009, or roughly 22 percent of the total, as follows:

Corridor Mobility Improvement Account (CMIA) = \$1.532 billion. The CTC approved the program of projects for CMIA funding in February 2007, which included the following three projects in Santa Clara County: (1) I-880 HOV lanes between Milpitas and San Jose = \$71.6 million; (2) U.S. 101 improvements between Mountain View and the San Mateo County line = \$84.93 million; and (3) U.S. 101 improvements in the Evergreen area of San Jose = \$30 million. VTA will not begin receiving money for its three CMIA projects until FY 2010 at the earliest.

Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA) = \$350 million. This formula program provides funds to public transit operators for the following: (a) rehabilitation, safety or modernization improvements; (b) capital service enhancements or expansions; (c) new capital projects; (d) bus rapid transit improvements; and (e) bus and rail car procurement, rehabilitation or replacement. In FY 2009, VTA can expect to receive roughly \$13 million under this program.

STIP = \$940 million. Funding for the STIP in the FY 2009 budget, regardless of whether it comes from Proposition 42 or Proposition 1B, was already taken into consideration when Caltrans and the CTC did the Fund Estimate for the 2008 STIP. VTA has one project programmed in the STIP for FY 2009: \$5 million for Highway 152 under the Interregional Transportation Improvement Program (ITIP).

Trade Corridors Improvement Fund (TCIF) = \$413 million. The CTC approved the program of projects for this funding in April 2008. No projects in Santa Clara County were included.

State/Local Partnership Program = \$200 million. This program provides funding over a five-year period to local and regional entities with voter-approved sales taxes, tolls or property taxes for transportation purposes. The transportation budget trailer bill, which was enacted along with

the budget, defines the formula that will be used to allocate bond revenues under this program. VTA will receive roughly \$9 million in FY 2009.

State Highway Operation and Protection Program (SHOPP) = \$194 million. This funding was already taken into consideration when Caltrans and the CTC did the Fund Estimate for the 2008 SHOPP.

Highway-Railroad Crossing Safety Account = \$63 million. The CTC approved the program of projects for this funding in August 2008. VTA, in partnership with the city of Fremont, will receive \$19.6 million under this program for two grade separation projects within the city of Fremont: (1) Warren Avenue = \$9.6 million; and (2) Kato Road = \$10 million. In addition to reducing vehicle congestion, decreasing emissions from idling cars and trucks, and enhancing traffic flow and the movement of emergency vehicles within the city of Fremont, both of these projects will facilitate the implementation of the BART Extension to Silicon Valley. VTA is set to begin receiving the funding for these two projects in FY 2010.

State Route 99 = \$99 million.

Local Seismic Bridges = \$21 million.

Intercity Rail = \$71 million.

Transit System Safety, Security and Disaster Response Account (TSSSDRA) = \$100 million. This formula program provides funding to public transit operators for: (a) capital projects that increase protection against a security or safety threat; and (b) capital expenditures to increase the capacity of public transit operators to develop disaster response transportation systems that can move people and goods, as well as emergency personnel and equipment, in the aftermath of a disaster. In FY 2009, VTA can expect to receive roughly \$3 million of the appropriated amount.

Port Security = \$57 million.

Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account = \$250 million. Under Proposition 1B, this formula program provides \$2 billion to cities and counties for local street and road maintenance and improvement projects. Of this amount, \$1 billion will be allocated to counties based on vehicle registrations and maintained county road miles, and \$1 billion to cities based on population. However, in the case of the cities' share, each jurisdiction is guaranteed a minimum amount of \$400,000, regardless of population. In FY 2009, counties across the state will receive \$63 million of the appropriated amount, \$2.43 million of which will go to Santa Clara County. Statewide, cities will get \$187 million, and their share is expected to be distributed on a first-come, first-serve basis.

While Proposition 1B was envisioned to be a 10-year program, already \$9 billion (or 45 percent) of the \$19.925 billion authorized has been appropriated in the first two years of implementation. That certainly is good news. However, an alarming trend is developing. Because of persistent diversions and/or loans of Proposition 42 and PTA revenues, and the erosion of the gas tax, Proposition 1B bond funds right now are propping up the state's entire transportation program.

## **PUBLIC TRANSPORTATION ACCOUNT (PTA)**

*PTA Revenues and Expenditures:* Revenues in the PTA are derived primarily from the following sources:

- Sales tax on diesel fuel.
- Sales tax on 9 cents of the state excise tax on gasoline.
- Proposition 42.
- Spillover.

On the expenditure side, how PTA revenues are allocated varies by funding source. In the case of the amount generated by the sales tax on diesel fuel and the sales tax on 9 cents of the state gas tax, which is considered to be the “base” funding for the account, 50 percent of the money is distributed to the State Transit Assistance Program (STA). This formula program provides funds for public transit operating and capital purposes, as well as for regional transit coordination projects. The remaining 50 percent is used to fund:

- Mass transit planning activities of Caltrans and the CTC.
- Passenger rail safety responsibilities of the California Public Utilities Commission (CPUC).
- Operating costs of the state’s intercity rail system.
- Rolling stock acquisition and other capital projects for intercity rail.
- California High-Speed Rail Authority, which was created through legislation passed in 1997 to oversee the development of a high-speed train system in the state.
- Transportation for clients of the state’s regional occupational centers, which became a new obligation of the PTA through the enactment of legislation in 2007.

This portion of PTA revenues also is used to fund transit capital improvement projects that are programmed through the STIP process.

With regard to PTA revenues derived from Proposition 42, 75 percent goes to STA and 25 percent for intercity rail and public transit capital improvement projects programmed through the STIP process.

*Spillover:* The spillover is an outgrowth of the Transportation Development Act (TDA), which allowed each county in California to elect to impose a ¼ percent sales tax to be collected by the state Board of Equalization and returned on a pro rata basis for public transportation purposes. When enacted in 1971, TDA was not designed to be 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. Therefore, 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 percent TDA sales tax. These excess revenues, or “spillover,” were originally intended to be transferred from the General Fund to 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.

This is how the spillover works. Under the Revenue and Taxation Code, the Board of Equalization and the Department of Finance are required to make a theoretical calculation every year 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 “spill over” from the General Fund into the PTA.

Spillover revenues were originally intended to be divvied up 50 percent to STA and 50 percent primarily for transit capital projects programmed through the STIP process. However, the spillover has grown significantly in recent years because of high gas prices. As a result, it has become an attractive target for shoring up the General Fund and balancing the state budget at the expense of public transit. In fact, legislation was enacted in 2007 to restructure the allocation of spillover revenues as follows:

- Starting in FY 2009, one-half of all spillover revenues would be deposited in 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.

*Final FY 2009 Budget:* In crafting the FY 2009 budget, Gov. Schwarzenegger and lawmakers changed current law to allow them to divert PTA revenues at an unprecedented level. Almost \$1.7 billion, or 71 percent, of all PTA revenues were used to cover the following General Fund expenditures:

- Transportation general obligation bond debt service = \$857 million.
- Proposition 1A loan repayment to the TCRP = \$83 million.
- Regional occupational center transportation = \$138 million.
- Yellow school bus service = \$589 million.

While significant amounts of PTA dollars have been diverted to the General Fund throughout this decade, the FY 2009 budget was particularly alarming for three reasons. First, not only was all of the spillover lost to the General Fund, but \$239 million of the account’s “base” funding was also snagged. This is the first time that the Governor and lawmakers have tapped into the PTA base for the General Fund. Second, Proposition 42 represents roughly two-thirds of the funding for the PTA in FY 2009. Had Proposition 42 been suspended, the account would have been in a world of hurt. Third, only 29 percent of PTA revenues went for public transit, which is what the account was originally set up to fund.

STA: As a result of the loss of \$1.7 billion in PTA revenues to the General Fund, STA is funded at only \$306 million in FY 2009, which represents a \$663 million cut from current law. For VTA, the reduction to STA represents roughly a \$26 million difference—\$38 million under current law versus \$12.2 million under a \$306 million program.

PTA STIP: No PTA funding will be provided for the STIP in FY 2009 under the enacted budget. Because all State Highway Account gas tax dollars are going to the SHOPP, the primary funding sources for the STIP are Proposition 42 and the PTA. This means that the STIP has become entirely reliant on funding sources that are subject to the vagaries of the annual state budget process. Proposition 1B also provided \$2 billion for the STIP, which was programmed by the CTC last year. In past fiscal years, the STIP has been able to withstand the impacts of PTA cuts because the CTC advanced Proposition 1B funds to backfill the loss. This essentially has pushed the impact of the PTA cuts on the STIP off until FY 2009.

The impacts of the recent budget decisions that have been made by the Governor and lawmakers are clearly evident in the 2008 STIP, which was approved by the CTC in May 2008. First, there is no programming for transit projects in FY 2009, reflecting the absence of PTA capacity. Second, most carryover highway and transit projects from the 2006 STIP have been delayed by at least one year.

## **HIGH-SPEED RAIL**

The FY 2009 budget includes \$46.4 million for the California High-Speed Rail Authority, \$29.1 million of which would come from bond revenues if the voters approve Proposition 1A, the \$10 billion Safe, Reliable, High-Speed Passenger Train Bond Act that is on the November 4 ballot.

On a related note, the Legislature passed and Gov. Schwarzenegger signed into law AB 3034 (Galgiani), which is intended to address issues that would enhance the chances of success of Proposition 1A at the polls and alleviate the Governor's concerns with regard to high-speed rail. This legislation does the following:

- Amends and expands the descriptions of the route segments for California's proposed high-speed train system.
- Keeps the San Francisco-San Jose-Los Angeles-Anaheim segment as the first priority for bond revenues, but allows money to be spent on other segments as long as that does not delay construction of the main line.
- Limits the amount of bond funds that could be spent on preconstruction activities.
- Requires a detailed funding plan for any segment before bond proceeds can be requested.
- Requires the High-Speed Rail Authority to complete an updated business plan by October 1, 2008.

- Creates a peer review panel to evaluate the planning, engineering and financing documents prepared by the High-Speed Rail Authority.
- Prohibits the construction of a high-speed rail station between Gilroy and Merced, a point of concern among environmental groups.

From: Board.Secretary  
Sent: Wednesday, October 15, 2008 3:49 PM  
To: Board.Secretary  
Cc: Burns, Michael  
Subject: Summary of Executed Real Property Purchase Agreements

To VTA Board of Directors:

Attached is a memorandum from Roberta Notrangelo, Real Property Acquisition and Management Manager, regarding real property purchase agreements executed by the General Manager.

Thank you.

Yolanda L. Cruz  
Assistant Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891



## MEMORANDUM

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

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

**FROM:** Roberta Notrangelo  
Manager, Real Property Acquisition and Management

**DATE:** October 8, 2008

**SUBJECT:** Summary of Executed Real Property Purchase Agreements

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On November 1, 2007, the Board of Directors authorized the General Manager to execute purchase agreements and possession and use agreements for the Freight Railroad Relocation Project, where the purchase price equaled the statutory offer of just compensation based upon an approved appraisal or where the negotiated purchase price did not exceed \$100,000. The Board requested that it be provided with a written report listing the agreements that the General Manager executed within these parameters. Attached is a list of real property purchase agreements executed by the General Manager between June and August 2008.

Attachment

Quarterly Report  
 General Manager Executed Purchase Agreements  
 Settlements at Appraised Amount or Less Than \$100,000

updated 12-Sep-2008

<b>Project</b>	<b>Property Address</b>	<b>Owner</b>	<b>Interest</b>	<b>Size (s.f.)</b>	<b>Purchase Price</b>	<b>Date Executed Agreement</b>
Freight Railroad Relocation	48366 Milmont Dr, Fremont	AMB-SGP CIF-California, LLC	PUE CSA	3,722 18,087	\$99,000	3-Jul-2008
Freight Railroad Relocation	31 S Milpitas Blvd, Milpitas	Limar Realty Corp. #2	TIEE	16,017	\$8,410	1-Jun-2008
Freight Railroad Relocation	1 S Milpitas Blvd, Milpitas	Hoffman Investment Company Wells Fargo Bank	TIEE	4,059	\$3,350	8-Jun-2008
Freight Railroad Relocation	11 S Milpitas Blvd, Milpitas	Union Bank	TIEE	2,052	\$1,540	7-Jun-2008
Legend:						
PUE: Public Utility Easement						
CSA: Construction Staging Area						
TIEE: Temporary Ingress/Egress Easement						
TCE: Temporary Construction Easement						

**From:** Board.Secretary  
**Sent:** Wednesday, October 15, 2008 6:10 PM  
**To:** Board.Secretary  
**Cc:** Burns, Michael  
**Subject:** Potential Press Event Tomorrow - 10/16/08

**Importance:** High

**Attachments:** Memo.Potential Press Event.pdf

To VTA Board of Directors:

Attached is a memorandum from the Acting General Counsel regarding a potential press conference tomorrow, organized by the opponents of Measure B. This event will be held somewhere on VTA property.

Thank you.


~~~~~  
Yolanda L. Cruz  
Assistant Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891



**OFFICE OF THE GENERAL COUNSEL  
MEMORANDUM**

Writer's Direct Telephone:  
321-7552

TO: VTA Board of Directors

FROM: Kevin D. Allmand   
Acting General Counsel

DATE: October 15, 2008

SUBJECT: Potential Press Event Tomorrow

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We have learned that there may be a press conference held somewhere on VTA property tomorrow, organized by opponents of Measure B. We understand that the event participants will be alleging that a recent Public Records Act (PRA) request sent by Mark Brodsky to VTA has produced documentation establishing that VTA has withheld information about the BART project and has inappropriately engaged in activity in support of the Measure B campaign.

As background, on September 9, 2008, a PRA request was received by VTA, asking for all writings between VTA staff and the Silicon Valley Leadership Group that refer to the proposed BART extension sales tax (Measure B), VTA's transit expenditure plan, and Measure C, since January 2008. Documents (mostly emails) were provided pursuant to the request, after review by VTA legal counsel to ensure compliance with the PRA.

There is no basis for the claim that these documents show that VTA officials violated laws prohibiting the use of government resources to advocate for or against passage of a ballot measure. The law does not prohibit public officials from providing factual information that does not advocate a position, participating in informational forums where both sides are presented, or answering questions from the press or public, including those from private individuals and organizations.

The documents produced do not show that VTA officials improperly provided information or used public resources to illegally advocate a position on Measure B. Instead, the documents demonstrate that officials and staff of VTA provided factual information regarding Measure B and the BART Project to members of the community who requested it. VTA always responds to requests for information, regardless of who

Memo to VTA Board of Directors  
October 15, 2008  
Page 2 of 2

may have made the request. In fact, VTA has provided information requested by persons and organizations who oppose Measure B.

The information reflected in these documents has been consistent with facts publicly presented to the VTA Board, the press and in other public forums. The documents establish that VTA officials and staff have made every effort to provide accurate, timely information, in a fair and consistent manner.

c: Michael T. Burns, General Manager

**From:** Board.Secretary  
**Sent:** Thursday, October 16, 2008 9:15 AM  
**To:** Board.Secretary  
**Cc:** Burns, Michael  
**Subject:** Media Advisory

**Importance:** High  
VTA Board Members:

The following is a copy of a media advisory which the Citizens for Sensible Transportation have sent to press regarding a political rally they have planned to take place on VTA property this morning.

If you have any questions, please do not hesitate to call me.

Greta Helm  
Chief of External Affairs  
(408) 321-5522

## Media Advisory

Right-click here to download pictures. To help protect your privacy, Outlook prevented automatic download of this picture from the Internet. logo

Citizens for Sensible Transportation: No on Measures B, C, and D

c/o Doug McNea  
389 Brookmere Dr.  
San Jose, CA 95123

**For Immediate Release: October 15, 2008      Contact: Margaret Okuzumi (650) 269-4109**

# **DAMAGING REVELATIONS ABOUT VTA AND THE YES ON MEASURE B TAX CAMPAIGN UNCOVERED**

**SAN JOSE, Calif. – Citizens for Sensible Transportation: No on Measures B, C, and D will hold a spirited press conference Thursday, October 16, 2008, 9:30 am PST at the Santa Clara Valley Transportation Authority (VTA) headquarters to present several highly damaging revelations about the Yes on Measure B tax campaign that have come to light as a result of a recent Public Records Act request of VTA.**

The evidence calls into question the integrity of the Yes on B effort and refutes key claims being made by supporters of the proposed sales tax increase.

**What:** Speakers from the No on Measure B sales tax campaign will unveil irrefutable evidence of illegal activity conducted by VTA in support of the Yes on Measure B tax campaign. They will also unveil disturbing evidence that calls into question key claims that Yes on B supporters have been making with respect to the proposed BART train to Fremont, and VTA's role with respect to the Silicon Valley Leadership Group. No on B speakers will also demand that VTA stop withholding from the public the updated cost estimate it has developed for the project.

**Who:** Opponents of the proposed VTA Measure B sales tax, including Santa Clara County Supervisor Blanca Alvarado who is a former chair of the VTA board, John McLemore, a former VTA board member and former vice-chair of the Metropolitan Transportation Commission; and Mark Brodsky, a former VTA policy advisory board member and former mayor of Monte Sereno.

**Where:** VTA headquarters, 3331 North First St., San Jose (at the sign at the corner of First Street and River Oaks)

**When:** Thursday, October 16, 2008, 9:30 AM

**Why:** "I'm personally appalled that VTA staff would conduct themselves in a way that not only brings dishonor and discredit to the VTA, but also contradicts the ethics training that VTA staff received at Santa Clara University at the beginning of this year," said David Casas, VTA board member. "Their actions call into the question the validity of the Yes on B campaign in its entirety."

"VTA knows twice as much as they did in 2005 about the costs of the proposed BART train to Fremont, but they're not releasing this data. They're hiding this, so that they won't have to talk about the additional taxes that will be needed if this project is ever to go forward," said Margaret Okuzumi, a VTA watchdog. "Voters can also see clearly the deceptive culture of this agency as evident also in Measures C and D."

"VTA made a terrible deal with BART. VTA knows it's a bad deal. I don't see why VTA's in such a rush to further bind us to a bad deal," said Greg Perry, a former VTA Board member.

**Media Visuals:** Backdrop: “What else is VTA hiding?” “What’s the true cost of this BART train?”; blown-up pages from the documents uncovered by the Public Records Act request.

###

**From:** Board.Secretary  
**Sent:** Friday, October 17, 2008 5:19 PM  
**To:** Board.Secretary  
**Cc:** Burns, Michael  
**Subject:** FW: Help me protect transportation funds  
**To VTA Board of Directors:**

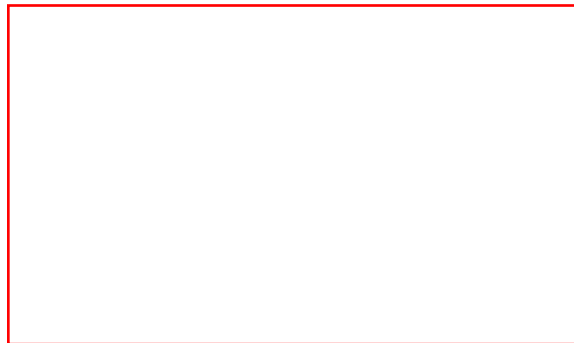
Below is a letter from the State Senate President Don Perata regarding transportation funds.

Thank you.

~~~~~  
Yolanda L. Cruz  
Assistant Board Secretary  
Voice: 408.321.5669 Fax: 408.955.0891

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**From:** State Senate President Don Perata [mailto:senatorperata@rebuildingcalifornia.com]  
**Sent:** Thursday, October 16, 2008 11:18 PM  
**To:** Board.Secretary  
**Subject:** Help me protect transportation funds



October 16, 2008

Dear Friends,

The governor's reporting a \$3B deficit already in the first quarter of the fiscal year. And that was before the stock market went to pieces.

Arnold wants the legislature to reconvene in special session immediately after the election next month. He correctly believes we must take action now to reduce the deficit, or the state's credit worthiness gets worse.

Unfortunately, the gov has not talked about new revenues, only program cuts and tax breaks - and vague "economic stimuli".

Inevitably, this will put a lot of pressure to raid Prop 42. I opposed the proposal to borrow from the road fund this summer - and I will continue to oppose it.

It's one of the few state programs employing a battered sector of our economy. I may need your help to fight off a raid.

I'll keep you posted.

Thank you.

Sincerely,



Don Perata  
State Senate President

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