

From: Board.Secretary
Sent: Wednesday, November 12, 2008 9:19 AM
To: Board.Secretary
Cc: Burns, Michael
Subject: Weekly Legislative Update

Good Morning,

Here is the weekly Legislative Update for the week of November 3, 2008.

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MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

FROM: Kurt Evans, Government Affairs Manager
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DATE: November 10, 2008

SUBJECT: Weekly Legislative Update: Week of November 3, 2008

FEDERAL

Presidential Election: Following his historic election as the 44th President of the United States, Barack Obama began the more mundane task of putting together a new administration, and dealing with the twin problems of war and financial crisis. The 47-year-old Obama, a first-term senator from Illinois who campaigned across the country for 21 months, moved quickly, receiving the first of what will become regular briefings on highly classified information from top intelligence officers, confirming the appointment of Rep. Rahm Emanuel (D-IL) as his chief of staff, returning congratulatory calls from world leaders, meeting with his team of economic advisors, and announcing his transition team.

Emanuel is giving up a House leadership post to return to the White House with Obama. He served as a top aide to former President Bill Clinton before running for Congress from Chicago. In a statement announcing Emanuel's appointment, Obama cited the lawmaker's experience in crafting "large and complicated financial transactions" during several years as an investment banker and his political savvy. Meanwhile, the transition team will be headed by John Podesta,

who served as chief of staff under Clinton; Pete Rouse, who has been Obama's chief of staff in the Senate; and Valerie Jarrett, a friend of the President-elect and campaign adviser.

The President-elect set the tone for the tasks ahead in an address before a jubilant crowd of 125,000 people at Grant Park in Chicago on Election Day. "We know the challenges that tomorrow will bring are the greatest of our lifetime—two wars, a planet in peril, the worst financial crisis in a century. There is new energy to harness and new jobs to be created, new schools to build and threats to meet and, for us to lead, alliances to repair." Obama commented that there would be "setbacks and false starts" ahead as the nation grappled with war and economic crisis. "The road ahead will be long," he said. "Our climb will be steep. We may not get there in one year or even one term, but America, I have never been more hopeful than I am tonight that we will get there."

Meanwhile, the man who will become Obama's predecessor offered his thoughts on the historic election. In brief remarks at the White House, President George W. Bush said Obama's election was "especially uplifting for a generation of Americans who witnessed the struggle for civil rights with their own eyes and four decades later see a dream fulfilled." The President also emphasized that he would keep Obama fully informed during a time of transition and would fulfill his chief responsibility of protecting the nation.

Congressional Elections: President-elect Obama will inherit a Congress with Democratic House and Senate majorities comparable to those enjoyed by former President Clinton when the party last controlled both Congress and the White House in 1992. While Democratic leaders are eager to churn out the new President's legislative programs, they are also anxious to avoid the electoral wipeout that swept them from power in the 1994 congressional elections. That is one reason top leaders such as Senate Majority Leader Harry Reid (D-NV) and House Speaker Nancy Pelosi (D-CA) promise not to lurch to the left and give in to pent-up demands from party liberals. "The country must be governed from the middle," Pelosi commented. "You have to bring people together to reach consensus on solutions that are sustainable and acceptable to the American people."

But after 14 years of either a GOP-dominated Congress or a Republican president, Democratic Party regulars are under intense pressure to deliver on an agenda that they have been promising long before Obama announced his bid for the White House. Inside Pelosi's caucus of House Democrats, some tensions already are apparent. Henry Waxman (D-CA), a liberal Pelosi ally, launched a bid to challenge 82-year-old John Dingell (D-MI) for the chairmanship of the influential House Energy and Commerce Committee, and to take the lead on issues such as global warming, energy and health care. Dingell is a staunch protector of Detroit automakers, and his battles with Waxman over clean air laws date back

to the Reagan Administration.

Republicans, too, are facing tensions and a shake-up of party leaders in the wake of the disappointing election results. Eric Cantor of Virginia launched a bid to become GOP whip, the No. 2 post, while Jeb Hensarling (R-TX) is seeking to replace Adam Putnam of Florida as the third-ranking Republican in the House. The current whip, Roy Blunt of Missouri, was considering his options, but did not immediately announce a bid to keep his job, a sign that he will likely step aside. Both Cantor and Hensarling are more conservative than the lawmakers they are seeking to replace, leading some Republicans to grumble that the party was moving to the right when it should be reaching toward the center if it is to regain its majority. House Minority Leader John Boehner of Ohio said he would seek to keep his post.

Shake-ups also are possible in the Senate, where Democrats have increased their effective majority to at least 56 seats in the 100-member chamber. Joe Lieberman of Connecticut, one of two independents who align with Democrats, is threatened with the loss of his chairmanship of the Homeland Security and Government Affairs Committee as payback for actively supporting the presidential bid of Republican Sen. John McCain of Arizona. Although he aligns himself with Senate Democrats and tends to vote with them on domestic issues such as health care, education and the environment, Lieberman angered many of them when he used a prime-time speech at the Republican National Convention this summer to criticize Obama as an untested candidate beholden to Democratic interest groups. In fact, McCain had considered making Lieberman his running mate before settling on Alaska Gov. Sarah Palin.

Then there is the game of musical chairs in the Senate that has to be played because of the departures of Obama and Vice President-elect Joe Biden (D-DE) to the White House. Illinois Gov. Rod Blagojevich, a Democrat, will appoint someone to fill out the remaining two years of Obama's term. Biden's departure opens up not only his seat, but also the prestigious chairmanship of the Senate Foreign Relations Committee. Delaware's departing Democratic governor, Ruth Ann Minner, likely will name a successor to serve until the end of next year, when a special election will be held to fill the remainder of Biden's term.

Financial Markets: Under fire from Democrats and Republicans alike, the White House defended giving billions of taxpayer dollars to banks that plan to use some of the money to reward shareholders and executives—or even to buy other banks. Ed Lazear, chairman of the Council of Economic Advisers, said the federal government is keeping close tabs on the way that banks use bailout dollars to “make sure that there are not abuses.” But he stated that normal activities of banks, such as paying performance-related salaries, distributing dividends or even purchasing other banks are allowed under the law that Congress passed creating the financial rescue program.

However, members of the Democratic-controlled Congress, as well as some Republican lawmakers, have questioned the program in the wake of reports that banks receiving funds through the newly enacted rescue plan are going ahead with plans for dividends, bonuses or acquisitions. Lawmakers are asking why banks with the money to do those things need taxpayer-funded help.

The Troubled Assets Relief Program (TARP) was created as part of the financial rescue package to buy devalued mortgage-backed securities from banks to unclog frozen credit markets. But the U.S. Treasury Department has now decided to use the bulk of that money to make direct stock investments in financial institutions, believing that could work better and quicker to get normal lending practices going again. The rescue legislation included some limits on executive compensation, and it does not allow institutions receiving the money to increase dividends. Lazear indicated that Treasury officials will make sure those requirements are met. But he also suggested that the federal government would go no further in placing conditions on banks in the program. Lazear said to do so may hamper their voluntary participation, and may also dampen the kind of free-market flexibility that the Bush Administration believes will work best to get credit moving again.

Economic Summit: At a summit scheduled for next week in Washington, D.C., the Bush Administration is hopeful that world leaders will adopt an action plan singling out some short-term steps that could be taken to deal with the current financial crisis, as well as prevent similar problems from happening again. The plan could include measures aimed at promoting more openness—or transparency—in the financial markets, improving “risk management” procedures so that financial institutions can detect and protect themselves against questionable investment decisions, and bolstering accounting rules.

However, it is expected that Europeans—led by British Prime Minister Gordon Brown and French President Nicolas Sarkozy—will seek more ambitious regulatory reforms coordinated among countries to prevent a repeat of similar housing, credit and financial debacles that are now imperiling the economies of the United States and the world. While the White House believes world leaders will be able to find some common ground for fighting the current financial crisis, there is little appetite in the waning days of the Bush Administration for a major overhaul of financial regulations.

Economic Stimulus Legislation: House Speaker Pelosi said she hopes Congress can return to Washington, D.C., this month to approve spending measures to stimulate the depressed U.S. economy. She pointed out that much depends on finding common ground with the soon-to-depart Bush Administration, which more often than not has been at odds with the Democratic majority. At a post-election news conference, Pelosi commented that a new economic relief plan in the lame-duck session could set the stage for more extensive stimulus legislation in the new Congress when Obama takes office, and Democrats assume larger majorities in the

House and the Senate.

President Bush last February signed bipartisan legislation that sent rebate checks of \$600 to \$1,200 to most individuals and couples, and awarded tax breaks to businesses investing in new plants and equipment. But pressure grew on Congress to step in again amid the financial crisis that unfolded in September and October. The House did pass a \$61 billion economic stimulus measure that would have extended unemployment insurance, provided additional food stamp assistance, given states help in covering Medicaid costs, and backed the development of more fuel-efficient vehicles. But in the Senate, GOP members blocked Democratic attempts to consider a \$56 billion bill that paralleled the House-passed legislation. In addition, President Bush expressed his opposition to a second economic stimulus bill.

STATE

State Budget: Gov. Arnold Schwarzenegger formally called a special legislative session to tackle the state's troubled budget. The aim is for the current group of lawmakers to come up with solutions to bridge this year's emerging budget gap and to begin to fill the hole expected for FY 2010. The Department of Finance estimates that the shortfall is \$24.2 billion over the next two years—\$11.2 billion for the current fiscal year and \$13 billion for FY 2010.

In announcing the special session, the Governor said, "In the six weeks since I signed our last budget, the mortgage crisis has deepened, unemployment has increased, and the stock market has lost almost 20 percent of its value." He proposed \$9.2 billion in solutions for the current-year gap—\$4.5 billion in spending reductions that touch virtually all state-funded programs and revenue increases amounting to \$4.7 billion.

On the revenue side, the Governor is calling for a temporary increase in the state sales tax rate of 1.5 percent for a three-year period starting January 1, 2009. It would raise \$3.54 billion in FY 2009 and \$7.3 billion in FY 2010. He is also proposing a new 9.9 percent oil severance tax, an increase in the alcohol beverage tax of five cents per drink, and a boost to vehicle registration fees of \$12. In addition, the Governor wants to extend the sales tax to the following six services: (1) appliance and furniture repair; (2) vehicle repair; (3) golf green fees; (4) veterinarian services; (5) amusement parks; and (6) sporting events.

In terms of expenditures, Gov. Schwarzenegger is calling for \$2.5 billion in cuts to public education. In addition, most health and human services programs would see their funding reduced under the Governor's plan. For example, he wants to reduce public assistance payments to elderly and disabled residents to the federal minimum, eliminate some Medi-Cal benefits, and reduce funding for CalWORKs. Furthermore, he is proposing that state workers take one unpaid day

off per month, as well as lose two of their 13 paid holidays.

In the case of transportation, the Governor is recommending a \$230 million cut to the State Transit Assistance Program (STA), leaving only \$76 million for FY 2009. This comes on top of the \$1.7 billion cut that was made to state public transit funding when the FY 2009 budget was originally enacted in late September. He is also proposing to eliminate STA altogether, beginning in FY 2010. Proposition 42 funding for the State Transportation Improvement Program (STIP) and local streets/roads is not impacted by the Governor's recommendations. In fact, since the temporary sales tax increase would apply to motor vehicle fuels, Proposition 42 funding would actually go up.

In addition to his recommendations for addressing the FY 2009 budget shortfall, Gov. Schwarzenegger proposed an economic stimulus package that includes pushing more Proposition 1B transportation bond money out the door. The Governor is recommending the appropriation of the remaining \$700 million in Proposition 1B bond funding for local streets and roads. He also is calling for an additional \$800 million in Proposition 1B bond money for public transit capital projects, which would come on top of the \$350 million that was included in the enacted budget.

As part of his economic stimulus package, the Governor is proposing a waiver from California Environmental Quality Act (CEQA) requirements to expedite the delivery of \$822 million in other Proposition 1B bond-funded projects administered by Caltrans (a list of these projects has not yet been made available). He also is calling upon the Legislature to enact bills to eliminate any remaining barriers to using public-private partnerships or design-build contracting for infrastructure projects. In addition, he is recommending providing targeted tax credits to the film and television industry to help keep production in California, and relaxing labor regulations to allow for more flexible work hours for employees, such as a four-day/10-hour-per-day work week, without overtime pay being required.

The Governor's plan immediately encountered opposition from Republican lawmakers, whose votes are needed to pass any budget changes. Assembly GOP Leader Mike Villines (R-Clovis) vowed to oppose any new taxes. He said lawmakers should agree to spending cuts first, and then consider other options to raise money, such as selling state assets, generating royalties by allowing offshore oil drilling, or achieving new efficiencies in public schools. Meanwhile, Assembly Speaker Karen Bass (D-Los Angeles) called the Governor's proposed cuts to health and human services programs "non-starters."

Under the special session, lawmakers have until November 30 to act on the Governor's proposals. The special session will involve 34 lame-duck legislators.

Climate Change: Following the lead of the Bay Area Air Quality Management District (BAAQMD), California regulators are calling for the imposition of fees on the state's worst air polluters as part of a proposal to cut greenhouse gas emissions to 1990 levels pursuant to AB 32 (Nunez), the state's landmark global warming legislation. Outlined by the California Air Resources Board (CARB), the fees, along with green technology job training and a cap-and-trade system, would vault the state ahead of federal efforts to curb climate-changing greenhouse gases.

CARB is charged with implementing AB 32, the 2006 law that requires the state to cut greenhouse gas emissions by about 174 million metric tons by 2020. In June, CARB released a draft plan that, among other things, called for California to derive one-third of its energy from renewable sources, such as solar and wind systems. The draft plan also included further reductions in carbon emissions from cars and an expansion of existing energy efficiency programs. The final 142-page proposal, which was released in late October, incorporates more than 40,000 public comments that were sent via e-mail, research reports and postcards. It is scheduled to go before CARB for approval in December.

In its analysis of the proposal's impact on the economy, CARB found that curbing carbon emissions and developing new green technologies would boost economic production by \$33 billion and add 100,000 jobs. Many of those jobs would come from new training programs at community colleges and other institutions.

CARB officials said certain parts of the plan will develop over decades. Over the next three years, CARB intends to come up with detailed measures aimed at accomplishing the broader goals. One of those specifics will be the fees paid by large polluters. Similar to a first-in-the-nation program enacted this summer by BAAQMD, the state board would charge big emitters for each ton of carbon that they release. The money would pay for the cost to monitor greenhouse gases.

Measures contained in the final proposal varied from the small—such as specific tire inflation standards for heavy-duty trucks—to the large. One of the most important is the cap-and-trade system, which is designed to make burning fossil fuels pricey and reward investment in renewable energy. The system sets limits on carbon dioxide emissions and allows companies to trade carbon credits based on amount of production. In Washington, D.C., regulators and lawmakers are working on a federal cap-and-trade system, but efforts are being hampered by wide energy differences between regions. California is working with six other Western states and four Canadian provinces to create a regional carbon market.

REGIONAL

Peninsula Corridor Joint Powers Board (JPB): At its November 6 meeting, the Caltrain JPB approved the following items: (a) authorized an increase in the FY

2009 capital budget by \$329,729 for the Stockton Avenue Railroad Crossing Project in San Jose; (b) authorized the execution of a baseline agreement and subsequent funding agreements with Caltrans for Caltrain grade separation projects funded under the Proposition 1B Highway-Railroad Grade Crossing Safety Account; and (c) adopted a policy to permit persons with disabilities who use electric personal assistive mobility devices (EPAMD), such as Segways, to transport those devices on the trains, thereby bringing Caltrain into compliance with a 2005 U.S. Department of Transportation directive on the subject.

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.