

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: February 2, 2009

SUBJECT: Weekly Legislative Update: Week of January 26, 2009

FEDERAL

Economic Stimulus Legislation: The House passed its version of an economic stimulus bill, the so-called American Recovery and Reinvestment Act, by a vote of 244-188. Despite heavy lobbying by the White House, all House Republicans opposed the legislation, arguing that the \$819 billion package contained too much “wasteful” spending, did not provide enough tax relief, would create too big of a deficit, and would not stimulate the economy.

President Barack Obama, Speaker Nancy Pelosi (D-CA) and other Democratic leaders had made it a top priority to get the package through the House as quickly as possible. They did it in eight days after the President’s inauguration. The 647-page measure is divided about 2-to-1 between new spending and tax cuts. It includes hundreds of billions of dollars in benefits for those hard hit by the recession, for state and local governments facing layoffs and cuts, and for initiatives designed to create or save 3 million jobs. It proposes roughly \$90 billion to improve highways, bridges, public transit systems, and waterways; \$32 billion to upgrade the nation’s energy transmission and distribution systems; \$6 billion to expand broadband internet access to unserved and underserved areas; \$43 billion to extend unemployment benefits and enhance job training; and \$87 billion for Medicare. It also includes President Obama’s “Make Work Pay” proposal, which calls for a \$500 tax break for low- and middle-income workers, and \$1,000 for working families.

In the case of transportation, the House bill calls for appropriating \$30 billion for highway and bridge construction projects. Of this amount, 55 percent would go directly to state Departments of Transportation (DOTs). The other 45 percent would emulate the existing distribution of the federal Surface Transportation Program (STP). In California, this means 10 percent of the state’s share would come off the top for transportation enhancements, 62.5 percent would be suballocated to metropolitan planning organizations (MPO) by population, and 37.5 percent would stay with the state. The federal share for each project would be 100 percent.

Meanwhile, public transit would receive a total of \$12 billion. Of this amount, \$7.5 billion would go for transit capital assistance grants, with 90 percent being allocated to urban transit operators under the Urbanized Area (UZA) Formula Program and 10 percent to rural operators under the Rural Area Formula Program. The House legislation would distribute \$2 billion to rail operators under the Fixed Guideway Modernization Program and provide \$2.5 billion for the New Starts Program. In the case of New Starts, the funds would be allocated at the discretion of the Federal Transit Administration (FTA), with priority being given to projects that are currently in construction or that are able to award contracts within 120 days. The federal share for all transit funding would be 100 percent.

For both highways and public transit, the House legislation establishes very aggressive timelines for when the funding would have to be used. In most cases, 50 percent of the money would have to be obligated within 75-90 days of enactment of the bill.

For other areas of transportation, the House measure provides:

- \$3 billion for airport improvements awarded on a discretionary basis.
- \$1.1 billion for Amtrak and intercity passenger rail. Of this amount, \$800 million would go to Amtrak for capital improvements and debt service, with priority being given to “projects for the repair, rehabilitation or upgrade of railroad assets or infrastructure.” The remaining \$300 million would consist of grants to the states to build their own intercity passenger rail infrastructure.
- \$500 million for the Transportation Security Administration (TSA) to purchase and install explosive detection systems and emerging checkpoint technologies at airports.
- \$400 million to help state and local governments buy alternative-fuel vehicles.

New DOT Secretary: The Senate confirmed President Obama’s nomination of former Illinois GOP Rep. Ray LaHood to become secretary of transportation. During his confirmation hearing before the Senate Commerce Committee, LaHood assured lawmakers that he would provide the necessary oversight to ensure that any economic stimulus funding for transportation is wisely spent. He also indicated that transportation is key to the Obama Administration’s environmental agenda, asserting that policy choices must acknowledge the new realities of climate change. Commenting on the upcoming reauthorization of federal surface transportation programs, LaHood urged committee members to think innovatively, declaring that the Highway Trust Fund, which relies on excise tax revenues, is “a dinosaur.” He cautiously endorsed the concept of public-private partnerships as an option for helping to pay for new transportation infrastructure, telling committee members that all opportunities must be explored.

Climate Change: President Obama directed the U.S. Environmental Protection Agency (EPA) to reconsider previous denials of applications by states, including California, that want to set their own limits on the amount of greenhouse gases that could be emitted by motor vehicles. “The federal government must work with, not against, states to reduce greenhouse gas emissions,” he commented. “The days of Washington dragging its heels are over. My

administration will not deny facts; we will be guided by them.” Should the EPA grant California, 13 other states and the District of Columbia permission to set their own standards for reducing greenhouse gas emissions from cars and trucks, it is likely that federal regulations would soon follow.

Greenhouse gas emissions from motor vehicles currently are not regulated by the federal government, and the Bush Administration opposed state efforts to set restrictions. The Bush Administration instead focused on improvements to fuel economy as a way to reduce greenhouse gas emissions, since cars and trucks burning less fuel would generate less pollution.

The federal Clean Air Act has always allowed states to set stricter standards than the federal government for refineries, factories and other stationary sources of pollution. However, the act prohibits a state from establishing more stringent pollution standards for motor vehicles, unless it receives a waiver from the EPA. California’s standard requires SUVs, minivans and cars to reduce their greenhouse gas emissions by 30 percent by 2016. However, the state’s request for a waiver under the Clean Air Act was denied by the Bush Administration last year.

President Obama’s First Days in Office: President Obama spent his first days in office aggressively signing executive orders reversing a number of George W. Bush’s administrative policies on issues ranging from foreign policy to government operations, and charting the course that he wants to pursue during his term in office. Some of the highlights are as follows:

- Acting swiftly on a campaign promise two days after his inauguration, President Obama signed a series of executive orders that call for closing the military prison at Guantanamo Bay, Cuba, within a year and moving out its 245 remaining detainees, shuttering CIA prisons overseas, and prohibiting harsh interrogation techniques such as waterboarding. In reversing policies set by the Bush Administration, the President said he wanted to send a message to the world that the United States will pursue the struggle against terrorism “in a manner that is consistent with our values and our ideals.”
- Emerging from his first Pentagon briefing since becoming the nation’s commander-in-chief, President Obama said the White House faces “difficult decisions” about Iraq and Afghanistan. But he offered no further details about his plans as the United States carries on wars in both countries. “Our efforts to continue to go after extremist organizations that would do harm to our homeland is uppermost in our minds,” the President commented. For both the wars in Iraq and Afghanistan, President Obama indicated that he is in the midst of hearing from military commanders and advisers about how best to proceed. In the past, he has called for a 16-month withdrawal of troops from Iraq.
- President Obama called Prime Minister Ehud Olmert of Israel, President Mahmoud Abbas of the Palestinian Authority, President Hosni Mubarak of Egypt, and King Abdullah II of Jordan, telling them that his administration is committed to addressing the long-running conflicts among Israelis, Arabs and Palestinians. The President also appointed former Senate Majority Leader George Mitchell as a special envoy to the Middle East to work with newly confirmed Secretary of State Hillary Rodham Clinton in the “pursuit of Arab-Israeli peace.”

- President Obama signed an executive order that quietly ended the Bush Administration's ban on giving federal money to international groups that perform abortions or provide information on the option. Known as the "Mexico City policy," the ban has been reinstated and then reversed by Republican and Democratic presidents since Ronald Reagan established it in 1984. Democrat Bill Clinton ended the ban in 1993, but Bush reinstated it in 2001 as one of his first acts in office.
- President Obama signed his first bill, a gender pay equity law that was a hallmark of his campaign for the White House. The Lilly Ledbetter Fair Pay Act makes it easier for workers to sue companies for pay discrimination, and effectively reverses a 2007 U.S. Supreme Court decision that had given workers only 180 days to file a lawsuit after they discovered the alleged discrimination.
- President Obama announced a pay freeze for White House staffers who make more than \$100,000, a symbolic move reflecting the nation's tight economic times for all Americans. He also signed an executive order implementing strict ethics rules for his administration. In addition, he promised to conduct government business in an open manner and to honor outside requests for information.

STATE

State Budget: The economic stimulus plan being written by President Obama and Congress could cover a third of California's projected budget deficit, and give Gov. Arnold Schwarzenegger and state legislators a way out of their political dilemma, but the Governor said it would be a mistake to count on it. California's share of direct spending in the package has been calculated at \$21-plus billion, \$14 billion of which could underwrite education, medical care and other spending programs over the next two years. However, because of its short-range nature, the Governor warned that it would not resolve the state's enormous structural budget problem.

The Schwarzenegger Administration has estimated that the gap between state income and outgo over the next 18 months is \$42 billion, and he and legislative leaders have been negotiating over how it should be closed. The Governor has proposed a series of new taxes, along with spending cuts, but so far Republican leaders have publicly shunned the former and Democrats have been unwilling to embrace the latter. In recent weeks, there have been indications that Republicans might supply enough votes for new taxes of some kind if Democrats accede to GOP demands for changes in environmental and labor laws, and a constitutional cap on spending growth. However, Democrats, under pressure from environmental and labor groups, have been reluctant to go along.

Ever since the federal government began discussing aid to states last fall, Gov. Schwarzenegger has insisted that California must solve its own budget crisis without help from Washington, D.C. Legislative Democrats seem to agree with the Governor's cautionary approach for now. After recently meeting with California's congressional delegation, Speaker Karen Bass (D-Los Angeles) and Senate President Pro Tem Darrell Steinberg (D-Sacramento) said they do not plan to rely on federal money to close the budget gap.

State Employees: Sacramento Superior Court Judge Patrick Marlette rejected arguments that Gov. Schwarzenegger's plan to save \$1.3 billion with unpaid time off for state workers was illegal and unconstitutional. The judge agreed with the Governor that the state's budget crisis constitutes an emergency, and that furloughs do not violate any labor laws or union agreements. Marlette concluded that the Governor's furlough order is "both necessary and reasonable under the circumstances." The furloughs affecting 238,000 state employees are scheduled to begin on February 6, and to continue on the first and third Fridays of each month.

Unions representing state workers are expected to take their case to the 3rd District Court of Appeal in Sacramento, requesting that the court either stop the furloughs outright or at least delay them while it considers the appeal.

REGIONAL

Metropolitan Transportation Commission (MTC): At its January 28 meeting, the commission approved \$2.5 million in Regional Measure 2 funds for final design and construction of VTA's Real-Time Transit Information Project. The commission also reassigned \$91 million in Regional Measure 2 funds from the Dumbarton Commuter Rail Project to the BART Extension to Warm Springs and from the BART Transbay Tube Seismic Strengthening Project to the BART Oakland Airport Connector. The latter two actions are consistent with the Resolution 3434 Strategic Plan, which was approved by MTC in September 2008.

In addition, the commission entered into a bond purchase agreement with the state of California for up to \$200 million in bonds to backfill Proposition 1B funds. Last December, the Pooled Money Investment Account Board suspended reimbursements for all Proposition 1B projects. As a result, numerous Bay Area transportation projects were in danger of being delayed or even cancelled. This action by the commission will allow these projects to continue to move forward.

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.