

## MEMORANDUM

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

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

**DATE:** September 28, 2009

**SUBJECT:** Weekly Legislative Update: Week of September 21, 2009

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### **FEDERAL**

***Surface Transportation Authorization:*** The House approved legislation to extend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) by three months, a move that is likely to reignite a clash over when to pass the nation's next multi-year surface transportation bill. Led by House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) and Ranking Minority Member John Mica (R-FL), the House had hoped to pass a new, six-year measure before SAFETEA-LU expires at the end of this month, but time constraints, as well as opposition from the Senate and White House, left House leaders with few other options.

The Senate is pushing forward with its White House-backed plan to extend SAFETEA-LU by 18 months in order to buy more time to find a way to pay for increased federal investment in highways, public transit and passenger rail. Senate Environment and Public Works Chairwoman Barbara Boxer (D-CA) said she hopes to bring that bill, which has already cleared the three Senate panels with jurisdiction over surface transportation issues, to the floor soon.

The competing proposals appear likely to rekindle this summer's debate, which was centered on a looming shortfall in the Highway Trust Fund, the account that provides the bulk of federal funding for the nation's surface transportation infrastructure. Senate leaders wanted to wed a multi-billion-dollar bailout of the fund with their 18-month extension, but that effort was derailed by the House, which scrambled to approve a \$7 billion transfer with no extension of current federal surface transportation law before adjourning for the August congressional recess. That transfer is expected to keep the Trust Fund afloat through the end of the calendar year.

For months, Oberstar had been threatening to block any temporary extension of SAFETEA-LU as a way to keep pressure on lawmakers to find time in a crowded congressional schedule to pass a long-term bill. But he recently conceded to support a very brief extension of SAFETEA-LU, followed by a renewed push to get a six-year, \$500 billion measure done.

Meanwhile, Senate leaders have stated that there is not enough time to tackle a full bill with Congress' attention dominated by health care reform and climate change legislation. In addition to debating what is likely to be a complete overhaul of the nation's surface transportation policy, lawmakers would have to find a way to pay for increased levels of investment—something that has proved to be difficult given the political opposition to raising federal fuel taxes or imposing other user fees, and given that the 2010 mid-term elections are right around the corner. The White House and Senate argue that their longer 18-month extension would help prevent Congress from being forced to pass a series of small extensions.

Looming deadlines that come and go are nothing new for federal surface transportation authorization bills. SAFETEA-LU was signed into law in August 2005, two years and 12 extensions after its predecessor had been scheduled to expire.

**Climate Change:** Two years ago, more than 180 nations made a bold promise: By the end of 2009, they would draft a sweeping treaty to slow climate change. Now that deadline is nearing, and hope is fading. The treaty is supposed to be finalized at talks that start on December 7 in Copenhagen, Denmark, but diplomats have made little progress toward an agreement.

The debate over climate change is wrapped in a range of political and economic conflicts. Climate scientists say the world is headed for dramatic changes unless nations cut greenhouse gas emissions from cars, power plants and factories soon. The key question is how to do so without crippling the worldwide economy, while at the same time, making such limits fair to industrialized nations, as well as developing countries and rising powers.

Despite dire scenarios if nothing is done, drafting a new climate change treaty will be more difficult than it was in 1997, when diplomats meeting in Kyoto, Japan, agreed to the world's first mandatory pact. Some of the challenges this time around are as follows:

- In Copenhagen, countries are supposed to settle which of them would be required to lower their emissions and by how much. However, countries are far apart on these questions. The European Union recently suggested that industrialized countries, including its members, cut emissions by 30 percent by 2020. Meeting that limit plus another goal to use more solar power and other renewable energy would cost tens of billions of dollars in 2020. On the other hand, China, which considers itself to be a developing country, wants developed nations to reduce emissions by 40 percent by 2020. China also insists that it should not be subject to mandatory emissions cuts, pointing to its efforts to produce more renewable energy and to become more energy-efficient. Meanwhile, a bill passed by the House in June would use a carbon-trading system to help cut U.S. emissions by 17 percent by 2020. A similar measure is scheduled to be introduced in the Senate in the next few weeks.
- Several dozen industrialized nations agreed two years ago to dig deeper into their pockets for climate-related aid. Developing countries would draw on the funds to cut their own emissions and to cope with the effects of global warming. A thorny question is: How much more money would wealthier nations be willing to offer? At negotiations in August, developing countries requested \$400 billion a year. That far outstrips the money that developed nations are likely to put on the table, particularly at a time of budget deficits.

- The Bush Administration and the Senate opposed the Kyoto Protocol because it exempted developing nations such as China and India from mandatory emissions cuts, which American lawmakers feared would put the United States at an economic disadvantage. The Senate's lack of approval of the Kyoto treaty helped make it ineffective in reducing emissions. Today, many U.S. senators have the same worries that a climate change treaty would slow economic growth, make American industry less competitive and drive up energy prices. In response, U.S. negotiators have made it clear that they would not finalize a treaty without having a very good sense of whether it would survive in the Senate.
- Nearly all the news from scientists add up to one hard truth: It will be extremely difficult to avoid more warming of the Earth. Even if carbon dioxide emissions fell to zero tomorrow, the Earth's temperature would continue to rise because it takes decades for the climate to adjust fully to a new level of greenhouse gases in the atmosphere. In July, the European Union and 16 of the world's wealthiest nations, including China and the United States, signed a statement acknowledging the scientific opinion that the Earth's temperature rise "ought not to exceed" roughly 3½ degrees. However, based on the amount of greenhouse gases now in the atmosphere, achieving the 3½ degree goal would require huge efforts over the rest of the century.

**Health Care:** Senate Finance Committee Chairman Max Baucus (D-MT) revised his sweeping health care reform bill to address concerns from fellow Democrats and a key Republican about insurance costs, part of his ongoing struggle to deliver on President Barack Obama's top domestic priority. The 10-year, \$856 billion package would extend health care coverage to about 29 million Americans who now lack it, and institute a series of insurance market reforms, such as prohibiting higher premiums for women and prohibiting the denial of coverage to people with pre-existing medical conditions. The proposal would make almost everyone buy insurance or pay a fee, give subsidies to the poor to help them buy coverage, and create new online exchanges where small businesses and people without government- or employer-provided insurance could shop for plans and compare prices.

Release of Baucus' bill two weeks ago gave a boost to President Obama's health care agenda after a summer of angry town hall meetings, although plenty of political and policy hurdles remain. In the days ahead, Baucus faces the difficult task of keeping his 13 committee Democrats on board without moving so far to the left that he alienates Sen. Olympia Snowe (R-ME), the only one of the panel's 10 Republicans seen as likely to vote for the legislation. Snowe's support could become even more critical presuming health care reform makes it to the Senate floor, where she would be the Democrats' top target as they look for the 60 votes needed to advance the bill. While Democrats currently control 60 votes in the 100-member Senate, party leaders cannot count on support from all of its moderates.

Baucus' legislation is the most conservative—and cheapest—of the five health care overhaul bills that have surfaced in Congress. The four other measures have already passed committees in the House and Senate, but Baucus' plan is the most closely watched because he tried to craft a bipartisan deal, though without succeeding in the end. In the other committees, majority Democrats passed legislation without GOP support that reflected mostly liberal priorities. Also,

the Finance Committee has a moderate make-up that resembles the Senate as a whole, so legislation that passes there could find favor on the Senate floor.

## **STATE**

***Tax Commission:*** The Commission for the 21<sup>st</sup> Century did not submit its recommendations to Gov. Arnold Schwarzenegger and the Legislature on September 20, despite the Governor's executive order marking that date as the deadline. While the main contents of the commission's package are generally known—a new value-added tax for businesses, lower income taxes, and no corporation and state sales taxes—the panel needed more time to finalize language around the edges on issues that were discussed during its last meeting on September 14.

Gov. Schwarzenegger gave the commission two deadline extensions this year after initially expecting its recommendations in April. His last executive order, which was issued in July, specified a September 20 deadline, but indicated that the commission would not disband until 30 days after issuing its report. Once the report is submitted, the Governor plans to call a special session of the Legislature to consider the recommendations. Major business and labor groups already have voiced significant concerns about the commission's proposal.

## **REGIONAL**

***Dumbarton Rail Policy Advisory Committee:*** At its September 25, 2009, meeting, the committee considered various options for the future of the project. Staff reported that the cost of the project is now estimated at \$701 million and that ridership is projected at 6,200 average daily passengers in 2035. The committee considered the following options: (a) continue the project and identify a new funding plan; (b) select the bus alternative for the project; (c) restart the environmental document with an alternative rail option; or (d) suspend all work and explore possible interim bus service in the corridor. The committee asked staff to conduct further analysis on the ridership numbers and the project's costs, and to return to the committee in December.

**NOTE:** Also contributing to this report were Susan Lent with Akin Gump Strauss Hauer & Feld; Mark Watts with Smith, Watts & Company; and Scott Haywood, VTA's Policy and Community Relations Manager.