

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: November 23, 2009

SUBJECT: Weekly Legislative Update: Week of November 16, 2009

FEDERAL

Surface Transportation Authorization: A bipartisan group of key senators relented on their efforts to push the next multi-year surface transportation bill into 2011 and instead called for a shorter, six-month extension of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) that would continue current levels of federal spending for highways and public transit until June 2010. In a letter, seven Senate committee leaders and ranking members asked Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) to limit debate on the proposal in order to circumvent a handful of lawmakers who successfully blocked previous efforts to speed passage of SAFETEA-LU extensions.

“On a bipartisan basis, we have decided to move forward with a six-month extension,” wrote the group, which includes Environment and Public Works Committee Chairwoman Barbara Boxer (D-CA) and the committee’s Ranking Minority Member James Inhofe (R-OK). “Unfortunately, a small number of senators continue to object and will not allow an extension to be considered by the Senate without a cloture vote.” Also signing the letter were Banking, Housing and Urban Affairs Committee Chairman Christopher Dodd (D-CT) and Ranking Minority Member Richard Shelby (R-AL); Commerce, Science and Transportation Committee Chairman Jay Rockefeller (D-WV) and Ranking Minority Member Kay Bailey Hutchison (R-TX); and Finance Committee Chairman Max Baucus (D-MT).

SAFETEA-LU, the current multi-year surface transportation authorization law, expired on September 30, but federal spending for highways and public transit has been maintained under a pair of stopgap measures called “continuing resolutions.” The current continuing resolution, which also includes spending authority for a number of other federal programs outside of transportation, is set to expire on December 18, and lawmakers will need to come to some type of an agreement on transportation funding before then.

For much of the summer, Senate leaders had heeded a White House call to extend SAFETEA-LU until March 2011. But while that effort cleared the three panels with primary jurisdiction over federal surface transportation law—Environment and Public Works, Banking, and Commerce—it was ultimately derailed by Democratic leaders in the House, who are holding out hope that they can pass a multi-year bill to replace SAFETEA-LU before the end of 2009.

Last month, with the first continuing resolution about to expire, Boxer and Inhofe temporarily relented on their 18-month push in favor of a six-month extension of SAFETEA-LU, but were unable to find the necessary bipartisan support to speed the effort through the Senate. Even if they had, House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) would have likely blocked the effort, as he has done with any extension beyond the end of 2009. Oberstar has remained steadfast in his effort to push forward with his committee's six-year, \$500 billion proposal, but plenty of work remains to be done before Congress could pass it. Lawmakers have yet to find a way to pay for the increased federal investment in transportation infrastructure that would be needed to finance Oberstar's bill, and the Senate has yet to craft its own version of the legislation.

In their letter to Reid, the seven senators argued that any additional short-term extensions would be another blow to the already ailing construction industry because many state officials are unlikely to proceed with longer-term projects when they are not assured of federal reimbursement. "One of the best ways to spur job creation and economic recovery is through infrastructure investment," they wrote. "That is why a longer-term extension of the surface transportation program is so important to maintaining our nation's vital bridges, roads, public transportation, and other related infrastructure, restoring our economy and creating good jobs for American workers."

Jobs: President Barack Obama will convene a White House summit early next month to explore ways to reverse the nation's rising unemployment rate. Economists and lawmakers hope that such proposals as tax breaks for companies that add workers, tax cuts for small businesses and more investment in the nation's transportation infrastructure will get renewed attention as a result of the President's announcement.

Economic and political concerns are accelerating after the country's unemployment rate hit 10.2 percent last month, reaching double digits for the first time in 26 years. With congressional mid-term elections looming next year and thousands more jobs being lost each week, there is a growing sense that lawmakers must act quickly to get new programs in place. President Obama said he will gather chief executives of large companies, small business owners, economists, labor leaders, and others to discuss ways to create jobs and grow the economy.

The move comes as Senate Majority Leader Reid told his colleagues that he plans to push a jobs bill in the coming weeks, as soon as the Senate finishes debating and voting on health care legislation. Meanwhile in the House, Democratic leaders are asking committee chairs to offer proposals for creating jobs that could be wrapped up into a single bill and enacted by year's end. The House package is almost certain to include extensions of expanded unemployment and health benefits that were included in the economic stimulus law that Congress enacted in February. Beyond that, Democrats are considering more funding for highways and other

infrastructure projects, which they believe can create jobs quickly; providing more aid to state governments facing budget shortfalls; and offering new tax incentives, including one for businesses that add employees.

Democrats are increasingly worried that the weak labor market will spell trouble for incumbents in the 2010 mid-term elections. Passing a jobs bill before the end of the year would allow nervous members to show constituents that Congress is on the case and trying to reverse the trend. Democrats also want to avoid calling the bill a stimulus measure in an effort to focus the debate on jobs rather than on economic growth.

One lingering question is how to pay for a jobs package. Democratic leaders in Congress would not want to offset the cost of new or continued initiatives immediately for fear it could squelch any stimulative effects with tax increases or spending cuts elsewhere in the economy. One possibility would be to target spending or tax policies on the near term, with cost offsets not going into effect until after a recovery is underway.

Motorcoach Safety: The Obama Administration said it will propose long-sought safety requirements for long-distance buses, including seat belts and stronger roof standards. A motorcoach safety plan released by the National Highway Traffic Safety Administration (NHTSA) calls for developing performance requirements for bus roofs before the end of this year and issuing a rule by early next year on the installation of seat belts. Other elements of the plan include:

- Requiring devices that record when a motorcoach is turned on or off in an effort to prevent drivers from operating a motorcoach longer than is allowed. Driver fatigue has been cited as a factor in some fatal accidents.
- Prohibiting drivers from texting, and limiting their use of cell phones while behind the wheel.
- Cracking down on motorcoach companies who try to evade safety rules by shutting down operations under one name and reopening under another.

Motorcoaches are buses with elevated passenger decks over a baggage compartment. They are widely used for service between cities and by the tour industry. Transportation Secretary Ray LaHood ordered a review of motorcoach safety earlier this year following a National Transportation Safety Board (NTSB) hearing regarding a January 2008 crash in Mexican Hat, Utah, that killed nine people and injured 43 others returning from a weekend ski trip. The roof of the bus was sheared off in the accident, and everyone aboard was ejected except for the driver, who was wearing the only seat belt on the bus, and one man who was pinned between two seats.

STATE

State Budget: California's budget is getting gloomier. Personal income tax collections are weak, courts are intervening, one-time fixes are exhausted, the economy is struggling, borrowing money is dicey, and forced furloughs continue. Partisanship within the Capitol Building is more

entrenched than ever, and in the background looms the 2010 gubernatorial election, in which the state's finances are likely to take center stage.

The Department of Finance says the state faces a \$5 billion to \$7 billion shortfall before the end of the current fiscal year, a dramatic shift from the roughly \$500 million cushion that had been predicted in a \$85 billion General Fund budget that already had been cut by \$6 billion from the year before. That means a new round of cuts is coming.

According to the Department of Finance, tax receipts are running below projections by more than \$850 million, although the latest numbers show they may be flattening out. Absent action and assuming a flat or worsening economy, the state is looking at shortages of perhaps \$25 billion or more during the next 2½ years, but the number is a moving target.

Aside from California's weak economy, a number of other factors are intensifying the crisis. For example, the temporary tax increases that were enacted this year will expire over time, leaving the state without money that it is now using to balance its books. At the same time, tax breaks for businesses that were approved as part of the FY 2010 budget deal to woo Republican votes will kick in, further draining the treasury. Moreover, lawmakers and Gov. Arnold Schwarzenegger patched the FY 2010 budget together using a handful of one-time fixes, such as delaying a \$6.3 billion payment to schools, accelerating tax collections to get money quickly, tapping federal stimulus money, and delaying payments to state employees. Some of these options may not be available to help fill the new budget hole.

A two-year borrowing of property tax revenues from local governments brought in about \$2 billion. However, under the provisions of Proposition 1A from 2004, this option cannot be used again until this money is paid back. In addition, the state is proposing to tap money from local redevelopment agencies, a move that thus far has drawn two lawsuits. Meanwhile, the state's diversion of \$3.5 billion in Public Transportation Account (PTA) revenues for General Fund purposes was recently ruled to be illegal by the courts.

State Parks: A coalition of environmental and non-profit groups has proposed a ballot initiative that would charge motorists an additional \$18 to register their vehicles in exchange for free admission to state parks. Proponents of the initiative claim that it would provide enough money to prevent parks from being closed. As it is, campgrounds, picnic areas, parking lots, restrooms, roadways, and buildings at many of California's 278 parks are being closed because of a \$14.2 million cut in the Department of Parks and Recreation's FY 2010 budget.

REGIONAL

Capitol Corridor Joint Powers Authority (CCJPA): At its November 18 meeting, the CCJPA approved the extension of its Administrative Support Agreement with BART. The agreement continues the current arrangement under which BART provides all necessary administrative support to manage and operate the Capitol Corridor Intercity Rail Service. Before the agreement was approved, it was announced that David Kutrosky will become the new managing director for the CCJPA, replacing the retiring Gene Skoropowski. Kutrosky has been with the Capitol Corridor since its inception and has been serving as its deputy managing director.

The CCJPA also authorized staff to submit grant applications for funding available under the High-Speed Intercity Passenger Rail Account of the American Recovery and Reinvestment Act (ARRA). The federal funds would be used to purchase much-needed rolling stock. The CCJPA had previously planned to submit this project through Caltrans as part of a united California request for funding. However, after all of the applications were received by Caltrans, the Governor's Office became concerned that California's total request was too large. As a result, the Governor's Office decided to focus California's efforts on the state's high-speed rail system and opted not to submit the CCJPA's request for funding. The CCJPA will now submit its application directly to the Federal Railroad Administration (FRA).

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.