

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: November 30, 2009

SUBJECT: Weekly Legislative Update: Week of November 23, 2009

FEDERAL

Health Care: In a rare weekend session, the Senate voted 60-39 to move health care reform legislation to the floor for a full debate. The 60 votes—a three-fifths majority—were the minimum needed under Senate rules to overcome Republican maneuvers to prevent the bill from even being debated by the full Senate. All 58 Senate Democrats and two Independents voted to advance the bill. But a divisive debate lies ahead, and there is no assurance that the measure, as it is currently written, will win approval in the upper chamber of Congress. The legislation proposes to extend coverage to roughly 31 million Americans without health insurance, crack down on insurance company practices that deny or dilute benefits, and curtail the growth of spending on medical care nationally.

The House approved its health care reform bill in November on a near party line vote of 220-215. Senate Majority Leader Harry Reid (D-NV) said he wants the Senate to pass its version by year's end. From there, the Senate and House measures would go to a conference committee, where selected members of each chamber would reconcile the differences between the two versions and come up with a final product. Each chamber would then need to approve the final bill before it could be sent to President Barack Obama for his signature.

While the Senate's vote to bring its legislation to the floor for debate was hailed as a victory for President Obama, who has made revamping health care the key plank in his domestic policy agenda, the measure's final passage is far from certain. Independent Sen. Joe Lieberman from Connecticut and three Democratic moderates—Sens. Ben Nelson of Nebraska, Mary Landrieu of Louisiana and Blanche Lincoln of Arkansas—agreed to advance debate despite having reservations about the legislation itself. They said they might not support subsequent votes on the bill unless changes are made. Of particular concern to them is a provision that sets up a government-run program to sell insurance in competition with private companies, with individual states being allowed to opt out of it. Critics say the so-called “public option” would open the way for an eventual government takeover of the nation's health care system.

In general, the Senate legislation would require most Americans to carry insurance and would provide subsidies to those who could not afford it. To finance the expanded coverage, it calls for higher taxes, as well as cuts totaling hundreds of billions of dollars in projected Medicare payments. Under the provisions of the bill, the insurance industry would come under significant new regulation. The Congressional Budget Office (CBO) estimates that the Senate bill would cost \$979 billion over a decade, while extending coverage to 94 percent of the eligible population.

Public Transit Safety: The Obama Administration will propose that the federal government take over safety regulation of the nation's subway and light rail systems, responding to what it says is haphazard and ineffective oversight by state agencies. Under the proposal, the U.S. Department of Transportation would do for public transit what it now does for airlines and Amtrak: set and enforce federal regulations to ensure that millions of passengers get to their destinations safely. Administration officials said the plan, which will impact every subway and light rail system in the country, will be presented in detail to Congress in the coming weeks. A change in federal law would be required to implement it.

The federal government long has regulated the safe operation of airplanes, Amtrak and even ferries. But a law passed in 1965 prohibits federal regulation of subways and light rail systems. When that law was put in place, there were only a handful of subways and light rail systems, and lawmakers reasoned that federal oversight would hamper their growth. As a result, rail transit operates under two very different federal systems offering disparate levels of safety oversight. Commuter rail systems, such as Caltrain, must adhere to a long list of federal regulations and are regularly inspected by federal safety monitors. Safety oversight of subway and light rail systems, on the other hand, is delegated to 27 regional bodies controlled by the states. As a result, quality varies, as does funding and enforcement power.

Under the Obama Administration's proposal, states that keep their oversight bodies would have to pass safety certification programs, and demonstrate that they have an adequately trained staff, as well as financial independence and authority to compel compliance from the systems they oversee. States running their own programs would receive federal funds to cover salaries, training and other expenses. Federal regulations would ensure that state programs establish standards similar to those set by federal monitors. The Federal Transit Administration (FTA) would assume direct oversight for states that opt out of safety monitoring. FTA also would take over for state organizations that the administration determines to be inadequate. If subway or light rail systems do not meet the new safety standards, they would risk losing federal funding for capital expenditures.

STATE

State Budget: California again is facing a mammoth budget deficit and the prospect of more cuts to state services, warned the Legislative Analyst's Office (LAO) in a new report that was released on November 18. The head of the office, Mac Taylor, noted that the state will face a \$20.7 billion deficit over the next 18 months, and he said the Legislature and Gov. Arnold Schwarzenegger need to start work to fill that gap "as soon as possible." Taylor also pointed out

that many one-time fixes that state leaders have relied on in the past to close deficits are not available. He warned that the state will face \$20 billion annual deficits through FY 2015 if permanent fixes are not made. The LAO's dire news comes only four months after lawmakers approved a controversial plan to close a \$24 billion shortfall in the current fiscal year.

Gov. Schwarzenegger has to present his spending plan for FY 2011 to the Legislature by January 10, and it is likely to include major cuts to health care, education and prisons, although Taylor cautioned that further cuts to schools would jeopardize federal education money for California.

According to the LAO's report, the \$20.7 billion budget deficit—\$6.3 billion in the current fiscal year and \$14.4 billion in FY 2011—is the result of several factors, including: (a) plans for spending reductions that never happened, particularly in the case of prisons and Medi-Cal; (b) court rulings that have blocked some cuts; (c) a nearly \$1 billion increase in the Proposition 98 funding guarantee for K-14 education in FY 2010; and (d) the assumption that the state would be unable to sell the State Compensation Insurance Fund, which was expected to bring in about \$1 billion this year. In addition, the state continues to experience declining revenues from taxes and other sources due to the recession. According to the Department of Finance, although revenues for October were \$363 million above what was expected, they are down \$596 million for the year.

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.

**OFFICE OF THE GENERAL COUNSEL
MEMORANDUM**

Writer's Direct Telephone:
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TO: VTA Board of Directors

FROM: Kevin D. Allmand
General Counsel

DATE: November 30, 2009

SUBJECT: Chair and Vice Chair Vacancies

This is to inform you of upcoming changes in the offices of Chair and Vice Chair of the Santa Clara Valley Transportation Authority (VTA) Board of Directors. Tomorrow evening, Barry Chang will be sworn in as a councilmember for the City of Cupertino replacing Councilmember Dolly Sandoval. Ms. Sandoval will cease to hold public office when her successor is sworn in and the office of Chair will become vacant.

VTA's Enabling Act states: "A vacancy exists whenever a director ceases to hold office on the city council or board of supervisors from which he or she was appointed." (Public Utilities Code Section 100060.2.) Pursuant to VTA's Administrative Code, "(i)n the event of the vacancy of the office of Chairperson, the Vice Chairperson shall succeed as Chairperson for the balance of the term of office." (Sec. 2-28.)

As a result, Vice Chair Liccardo will become Chairperson of the VTA Board of Directors immediately upon Mr. Chang taking office tomorrow evening. Mr. Liccardo will serve out Ms. Sandoval's unexpired term and will then be succeeded by the Chairperson elected at the January 7, 2010 Board of Directors meeting.

The office of Vice Chair will become vacant at the same time and will need to be filled for the balance of the term (i.e., until the January 7, 2010 Board meeting) at an election scheduled for the December 10th meeting. (Administrative Code, Sec. 2-28.)

While these changes are only for a short period, we need to comply with our Enabling Act and Administrative Code in these matters. If you have any questions or need further information, please feel free to contact me directly.