

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: December 7, 2009

SUBJECT: Weekly Legislative Update: Week of November 30, 2009

FEDERAL

President's December Agenda: For President Barack Obama, December looms not as the season of holiday celebrations, but rather as a month of critical developments likely to set the stage for the rest of his first term in office. In a recent nationally televised address, he outlined the course ahead in Afghanistan, his hottest foreign policy challenge. Shortly thereafter, the White House convened a summit on jobs, the President's biggest political headache. Meanwhile, the Senate opened debate on health care reform legislation, his top domestic initiative, and later this month, the President plans to travel to Copenhagen to speak at the United Nations summit on climate change.

Afghanistan: This week marks the eighth anniversary of the fall of the Taliban government in Afghanistan, a signal victory just two months after the U.S.-led invasion was launched by the Bush Administration in the wake of the 9/11 attacks on New York City and Washington, D.C. Eight years later, however, President Obama announced his second significant expansion of the war, deploying thousands of additional U.S. troops while outlining an exit strategy. Republican lawmakers, his opponents on most issues, are with him on this one, but his fellow Democrats need persuading. House Speaker Nancy Pelosi (D-CA) warned that there is "serious unrest" among Democratic members of Congress about financing an expanded war.

Jobs: Momentum has been building for Congress to enact a "jobs bill" ever since the release of the October unemployment number of 10.2 percent. In response, President Obama invited dozens of CEOs, small business owners, labor leaders, and economists to a jobs summit at the White House to discuss such topics as fostering U.S. competitiveness, creating environmental "green" jobs and expanding exports. The White House already is pushing Congress to extend federal unemployment benefits and to continue a health care subsidy for the jobless set to expire at the end of the year. However, there is no quick fix in sight. In a recent forecast, the Federal Reserve predicted that it would take five or six years for economic activity to return to normal. Even at the end of 2012, when President Obama could be running for re-election, the jobless rate is expected to remain uncomfortably high, in the range of 6.8 percent to 7.5 percent

Health Care: The good news is that the opening of Senate debate means a revamp of the nation's health care system has progressed further legislatively than any such proposal in a generation. The bad news is that President Obama originally demanded that the House and Senate act before the Labor Day congressional recess. Now he hopes a Senate vote will happen before Congress adjourns for the year, pushing into next year only the final legislative step—ironing out the differences between the House and Senate versions—before a White House signing ceremony. Getting a bill through the Senate will demand legislative legerdemain. A few moderate Democrats say they will not vote for a plan that includes a government-run option to compete with private insurance plans, while several liberal Democrats have indicated that they will not vote for a plan that does not include a public option. Raising taxes and covering abortions are other flash points in the debate. Even Afghanistan could complicate things. A decision to send more troops to Afghanistan is likely to intensify domestic opposition to the war and could make some liberal Democrats less willing to make concessions to moderates on health care. There also are intersecting concerns about deficit spending, and the costs of waging the war, changing the health care system and sparking job creation.

Climate Change: The administration recently announced that President Obama will swing by Copenhagen to address the global climate change conference, where he plans to commit the United States to reduce emissions over the next decade in the range of 17 percent below 2005 levels. That figure is less ambitious than the President had promised, but more than what advocates for tough action had feared the United States would do. However, the Copenhagen conference is not expected to produce any binding agreements on how to reduce greenhouse gas emissions globally.

Surface Transportation Programs: As time runs out on the current congressional session, negotiations continue on legislation to provide appropriations for FY 2010, to extend or modify existing federal surface transportation authorization law, and to provide new funds for transportation infrastructure as part of a jobs bill to further stimulate the national economy.

Congress must enact legislation prior to December 18 to provide appropriations for FY 2010 and to further extend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The continuing resolution passed on October 30 extended SAFETEA-LU and provided funding for federal highway and public transit programs at FY 2009 levels only through December 18. This continuing resolution was the second that was required to extend transportation appropriations and authorize short-term funding for federal surface transportation programs, as congressional committees have not been able to craft and agree on a full six-year authorization bill, nor pass the FY 2010 Transportation and Housing and Urban Development Appropriations Act. Congress may combine the remaining appropriations bills into an omnibus package prior to the end of the calendar year. It is likely that another short-term extension of SAFETEA-LU will be included in that same package.

Leaders of several committees in the Senate have urged that chamber's leadership to enact a six-month extension of SAFETEA-LU. However, considering the Senate's focus on health care, it is unlikely that any proposed extension will be considered as a stand-alone measure. Congress could pass a six-month extension that does not require new funding for programs supported by

the Highway Account of the Highway Trust Fund. However, a longer extension, such as the 18-month bill supported by the White House, would require more funding than current fuel tax revenues generate to maintain highway spending at even current levels.

Meanwhile, House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) and House Appropriations Committee Chairman David Obey (D-WI) have reportedly been working on a new proposal to provide more than \$100 billion from the General Fund to finance highways and public transit programs for the next two years. However, with the Senate still debating health care reform legislation, it appears unlikely that such a bill could pass both chambers this year.

STATE

Climate Change: California has taken a major step toward creating a broad-based trading system to limit emissions of pollutants blamed for climate change. Recently, the California Air Resources Board (CARB) released a draft rule establishing a cap-and-trade program that sets a declining ceiling on greenhouse gas emissions, and allows companies to buy and sell permits to meet it. California's goal is to reduce greenhouse gas emissions to 1990 levels by 2020. The proposed system would begin in 2012 with 600 major sources of global warming pollutants, including power plants, refineries and concrete factories. Similar proposals to reduce emissions are currently stalled in Congress.

California joins a number of other states and regions, including the 10 states of the Northeast, in moving ahead with programs to address climate change as Congress debates a nationwide program. One point of dispute in the legislation is whether the federal government would preempt these local and regional efforts, and create a single national cap-and-trade program.

The draft of California's program dodges one of the toughest issues in designing any cap-and-trade system: how to allocate permits that allow companies to emit carbon dioxide and other greenhouse gases. A bill that passed the House in June distributes roughly 85 percent of the permits to various industries free in the early years of the program, with more of them auctioned in later years. CARB Chairwoman Mary Nichols said her preference is for virtually all of California's permits to be auctioned from the start.

CARB has scheduled months of hearings and public comment on the rule before it will be finalized next October.

State Debt: Before California's economy sputtered, voters authorized multi-billion-dollar bond measures for improving the state's infrastructure. They approved generational investments in transportation, schools and levees, as well as hospitals and stem-cell research. At the time, fiscal experts projected that California, at most, would have to spend roughly 6 percent of its annual budget on debt service payments. Now, with the state's revenues having plummeted, estimates show that debt service could consume as much as 10 percent of the General Fund by FY 2015, an "unprecedented" ratio, according to the Legislative Analyst's Office. And Treasurer Bill Lockyer warned that a 10 percent debt ratio "would require cutting even deeper into crucial services already reeling from billions of dollars in reductions." These latest debt warnings came

just weeks after lawmakers and Gov. Arnold Schwarzenegger placed a new \$11.1 billion water bond on next November's ballot.

Both the Legislative Analyst's Office and Lockyer have suggested that policymakers re-evaluate the state's debt situation. For his part, Lockyer has advocated for a "master plan" to direct investments through 2050. One way for the state to reduce its debt service ratio is for lawmakers and the Governor to slow bond spending that has been authorized by the voters. At the beginning of October, the state had \$53 billion in bonds that had been authorized but not issued, according to the Legislative Analyst's Office.

REGIONAL

Peninsula Corridor Joint Powers Board (Caltrain JPB): At its December 3 meeting, the Caltrain JPB authorized a contract with S.J. Amoroso Construction Company, Inc., for the South Terminal and Santa Clara Stations Improvement Project. The amount of the contract is \$24 million. Funding for this contract includes federal, state and local sources. The local sources include contributions from VTA and the San Joaquin Regional Rail Commission, which operates the Altamont Commuter Express (ACE). The Santa Clara Station work consists of a new center platform and pedestrian tunnel, while the South Terminal element of the project calls for constructing two additional platforms to help accommodate extra service.

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.

December 9, 2009

Loretta A. Springer, President and Business Agent
The Amalgamated Transit Union, Local 265
1590 La Pradera Drive
Campbell, CA 95008-1533

Dear Ms. Springer:

I have been asked to respond to your letter to VTA Chairperson Sandoval requesting information about salaries for certain Non-Represented VTA employees. Pursuant to VTA policy, Non-Represented Employees are compensated on a performance based Broad Range system that provides for both annual Merit Increases (analogous to the negotiated annual increases for represented employees, except that the amount of the increase may be determined by job performance), and annual Accelerated Increases (which are analogous to step progressions).

Accelerated Increases require satisfactory performance and allow employees to reach the mid-point of their salary range, at which point they are no longer eligible for this type of increase. The increases received in May of 2009, which you cited in your letter, were Accelerated Increases. Discussions regarding a freeze for both Merit and Accelerated Increases for Non-Represented employees, to correspond with negotiated freezes for Annual and Step Increases for employees represented by administrative unions, were held at the June 2009 Board meeting during budget deliberations. These pay freezes went into effect with the beginning of the fiscal year on July 1, 2009.

Your next question was regarding the deferred compensation contributions for the General Manager and General Counsel. These contributions were granted by the Board as part of the overall compensation packages for the General Manager and General Counsel, as detailed in their employment contracts. Along with all other administrative employees, their salaries have been frozen and they will take 12 furlough days during each of fiscal years 2010 and 2011.

The performance payments received by some Non-Represented employees were one-time payments that were part of the annual Merit Increase process for employees whose performance was rated as exemplary. Rather than an additional increase to the base pay of these top performers, it was determined to provide the one-time payments. Only a small number of employees received performance ratings sufficient to qualify for these payments in 2007; this did not include all members of the VTA negotiations team. No payments were granted in 2008. Non-Represented employees did not receive a merit increase in 2009, nor will they in 2010 or 2011.

Non-Represented employees, along with employees represented by SEIU, AFSCME and TAEA, absorbed a 4.6% wage reduction through their participation in 12 days of unpaid furloughs in

each fiscal year in our two year budget. In addition, the freeze on annual pay increases and step increases until July 2011 has and will continue to yield additional savings.

You correctly point out that ATU represents the majority of VTA employees (approximately 70%). I would also note that the remaining 30% of employees (non-represented and those represented by the administrative unions) have contributed 75.8% of the total savings gained through the pay concessions. These savings were gained by real reductions to compensation, not by deferred increases.

I trust that this responds directly to your request for a confirmation of information as detailed in your letter. However, if you have additional questions, I would be happy to assist you.

Sincerely,

Bill Lopez
Chief Administrative Officer

C: Honorable Dolly Sandoval, Chairperson
VTA Board of Directors
Michael T. Burns, General Manager