

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: December 28, 2009

SUBJECT: Weekly Legislative Update: Week of December 21, 2009

FEDERAL

Health Care: The drive to enact President Barack Obama's sweeping health care overhaul entered its final phase with the passage of the Senate bill on a strict party line vote of 60-39 during an unusual Christmas Eve session. However, hardened differences with the House over abortion, taxes and the government's role in the insurance market remain to be resolved. Although Congress will not reconvene until mid-January, efforts to reconcile the two versions of the legislation are under way at an informal level.

The measure that eventually goes back to the House and Senate for a final vote almost certainly will increase the number of people covered by government and private insurance by at least 30 million. It will require most individuals to buy coverage, offer federal subsidies to help lower-income individuals and families pay premiums, impose penalties on employers who do not offer affordable policies, and set up an insurance marketplace for individuals without job-based coverage. In addition, insurers will not be able to deny coverage based on pre-existing conditions or set a lifetime cap on benefits; young adults will be able to stay on their parents' plan longer; and preventive health care will be 100 percent covered. However, the final bill most likely will not include a government-run insurance program.

Despite bipartisan consensus that the nation's current health care system is unacceptable, debate in the Senate was especially bitter, personal and partisan. Not a single Republican voted for the bill, and GOP leaders did everything they could to delay the legislation's consideration. They spent more than 80 hours in Senate floor speeches denouncing the Democrats' bill as an expensive, ill-considered, pork-laden "monstrosity" that would do little to curb costs and rising insurance premiums. Undaunted by the Christmas Eve vote, Republicans vowed to keep up the battle—not just in Congress, but also on the campaign trail during the 2010 mid-term elections.

The outcome of the Senate vote had been all but certain for about a week, when the last two holdouts in the Democratic caucus—Sen. Ben Nelson from Nebraska and Independent Sen. Joe Lieberman from Connecticut—were persuaded to support the bill. That gave Democrats the 60 votes needed to break a threatened GOP filibuster. Lieberman joined the effort after Senate Majority Leader Harry Reid (D-

NV) dropped the most controversial part of the legislation: a government-run “public option” that would compete with private companies to make premiums more affordable. Nelson held out for tighter restrictions on federal funding for abortions. Those issues will have to be revisited in House-Senate negotiations to craft a compromise bill.

Since Democrats see no hope of attracting GOP support, it is possible that a handful of leaders from both chambers—and perhaps some key committee chairs—will hammer out a deal behind closed doors. Members of the Obama Administration also are expected to be heavily involved in the talks. One of the thorniest issues will be abortion. Language in the House bill, drafted by Rep. Bart Stupak (D-MI), would prohibit anyone receiving federal premium subsidies from buying a policy through the insurance exchange that covers abortions. The Senate measure, on the other hand, would prohibit the use of federal funds for such coverage, requiring insurers to segregate public and private funds to assure that. Stupak has pledged to fight the Senate language, but it is unclear how many anti-abortion Democrats would vote against the entire bill over this issue.

Another politically explosive question is how to raise the money needed to pay for the bill. The Senate legislation would impose a 40 percent excise tax on high-cost insurance plans—a tax that analysts predict would be passed on to consumers in the form of higher premiums or reduced benefits. This so-called “Cadillac tax” is a deal-breaker for labor unions, which argue that workers have given up wage increases in exchange for negotiating generous benefit packages. But advocates of the Cadillac tax say it would help contain health care costs by discouraging companies and employers from offering high-end plans. The House bill would pay for its plan by imposing an income tax surcharge of as much as 5.4 percent on individuals making more than \$500,000 and families making more than \$1 million.

Lawmakers hope to send a final bill to the White House before President Obama delivers his State of the Union Address in late January or early February, but they say it probably will take a bit longer.

STATE

State Budget: Six months into the leanest fiscal year in memory, Gov. Arnold Schwarzenegger and the Legislature soon will begin wrestling with a new budget deficit. The Governor and lawmakers spent much of 2009 cobbling together a way to close a \$60 billion shortfall with the full realization that whatever they did, it would not be enough to fend off more red ink in 2010. Sure enough, the non-partisan Legislative Analyst’s Office (LAO) estimated last month that the state now faces a \$20.7 billion gap between what it can expect to collect in revenues and spend over the next 18 months. That figure includes a \$6.3 billion hole for the current fiscal year and a \$14.4 billion deficit for FY 2011.

As difficult as fixing the \$60 billion problem was, closing the new deficit will be even more challenging for several reasons. First, California cannot rely on another \$8 billion in federal stimulus money as it did in the current fiscal year, although state officials hope that at least some aid from Washington, D.C., will show up in FY 2011. Second, some of the solutions this time around were one-time in nature, including such budgeting maneuvers as accelerating the collection of payroll taxes and postponing the last payday for state workers in the current fiscal year until the first day of the next. Third, the state is scraping bottom in cutting some major spending programs because of the so-called “maintenance of effort.” This basically means the federal government sets minimum standards for

programs such as education and human services that states must meet in order to be eligible for federal funds.

In addition, Gov. Schwarzenegger and lawmakers must confront some legal problems. Among them are lawsuits: (a) challenging the legality of \$489 million in budget vetoes the Governor made in July; (b) disputing the Governor's claim that he has the right to furlough state workers; (c) disputing the borrowing of \$1.7 billion from local redevelopment agencies; and (d) fighting a federal court order to reduce the state prison population. The state has already lost one budget-related lawsuit when an appeals court ruled that it illegally grabbed Public Transportation Account money in FY 2008 to pay for General Fund obligations.

Gov. Schwarzenegger and the Legislature patched the \$60 billion budget hole for FY 2010 with \$31 billion in spending cuts; \$12.5 billion in temporary tax hikes; \$8 billion in federal stimulus money; and \$8.4 billion in accounting maneuvers. It was a package that left few of California's 38 million residents unscathed. Sales, income and vehicle tax increases are costing Californians roughly \$329 per resident. Funds for elementary schools, high schools and community colleges—with a total statewide enrollment of about 9.2 million students—were sliced by as much as \$17 billion. About 1.3 million elderly, blind and disabled Californians saw their state aid cut—from \$907 to \$845 per month for individuals and from \$1,489 to \$1,407 per month for couples. State funding for public college and university systems, which serve about 527,000 students, fell 20 percent, while fees climbed by close to 30 percent. Approximately 200,000 state employees were furloughed without pay three days a month, the equivalent of a 14 percent salary cut.

The California Constitution requires the Governor to submit a balanced budget proposal to the Legislature by January 10. Gov. Schwarzenegger says he plans to do it on January 8. Early reports indicate that the Governor plans to appeal to Washington, D.C., for billions of dollars in federal help, without which he would propose to severely cut back—if not eliminate—CalWORKS, the state's welfare-to-work program; the In-Home Health Care Services Program for the disabled and elderly poor; and two tax breaks for large corporations that were recently approved by the Legislature. In addition, he is expected to get around the recent court ruling involving the Public Transportation Account by proposing a swap that would consist of eliminating the sales tax on motor vehicle fuels and replacing it with a slight increase in the per-gallon gasoline excise tax. This shift would gut not only the Public Transportation Account, but also Proposition 42. Indications are that the Governor will also revisit a plan to expand oil drilling off the Santa Barbara coast, and continue the 14 percent cut in state worker payroll either through an extension of furloughs beyond June 30, layoffs or a combination of both.

Even if Gov. Schwarzenegger and lawmakers come up with another patchwork solution to cover the new shortfall, the LAO predicts that California will continue to run close to \$20 billion-plus deficits though at least FY 2015.

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.