

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: March 16, 2009

SUBJECT: Weekly Legislative Update: Week of March 9, 2009

FEDERAL

FY 2009 Omnibus Appropriations Bill: President Barack Obama signed the FY 2009 Omnibus Appropriations Act (H.R. 1105), a massive \$410 billion spending bill that funds federal domestic programs for the entire fiscal year. In the case of transportation, the legislation provides \$40.7 billion for federal-aid highway programs, \$500 million less than the obligation limitation set by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Federal-aid highway funds are allocated to the states by formula and, in the case of California, show up primarily in the State Highway Operation and Protection Program (SHOPP), and in the State Transportation Improvement Program (STIP).

The FY 2009 omnibus appropriations bill includes \$10.231 billion in new budget authority for public transit programs, a \$740 million increase over last year's amount, but \$106 million less than the funding level authorized in SAFETEA-LU. The breakdown for the key program categories under the transit title is as follows:

- **Urbanized Area Formula Program** = \$4.2 billion. These funds are allocated to public transit operators in urbanized areas (UZAs) through a complex formula and can be used for any transit capital purpose. Under the provisions of SAFETEA-LU, these formula funds can also be used for preventive maintenance, as well as for paratransit services required by the federal Americans with Disabilities Act (ADA), provided that the amount dedicated for this purpose does not exceed 10 percent and the public transit operator is in full compliance with ADA. While FTA has not yet issued the apportionments for these funds, VTA can expect to receive between \$35 million-\$45 million.
- **Rural Area Formula Program** = \$465 million. These funds are allocated to public transit operators that are not in a UZA. In California, Caltrans is responsible for distributing these funds to rural public transit operators as directed by the California Transportation Commission (CTC).

- Elderly and Individuals with Disabilities Program = \$133.5 million. These funds are granted to non-profit organizations to provide transportation services to elderly and disabled individuals who cannot use or do not have access to public transit systems. In California, Caltrans is responsible for administering these funds as directed by the CTC. As VTA's paratransit broker, Outreach is the principal recipient of these funds locally.
- Job Access/Reverse Commute Program = \$164.5 million. This formula grant program funds projects designed to provide access to employment opportunities for welfare recipients and low-income individuals. It also funds reverse commute initiatives. In addition to public transit operators, funds under this program can be allocated to other governmental entities and non-profit organizations, provided that they coordinate their activities with their local public transit operators. VTA and the county together are responsible for programming Santa Clara County's formula share of Job Access/Reverse Commute Program funds. While FTA has not yet issued the apportionments for these funds, VTA can expect to receive around \$500,000.
- New Freedom Program = \$92.5 million. This formula program provides funding for new transportation services beyond those required by ADA for individuals with special mobility needs. Of the total amount appropriated in FY2009, roughly \$440,000 is expected to be available to VTA.
- Bus and Bus Facilities Program = \$884 million. These discretionary funds are earmarked by Congress primarily for the purchase of buses, as well as for the construction or upgrading of bus facilities. While VTA submitted an appropriations request for the Bay Area's Advanced Zero-Emission Bus Demonstration Project, it did not receive an earmark for FY 2009 under this program.
- Clean Fuels Grant Program = \$51.5 million. This program provides grants to public transit operators to help them utilize clean-fuel technologies for their bus fleets. The funds were originally intended to be distributed according to a complex formula that takes into consideration a public transit provider's fleet size and passenger miles, as well as the severity of the air quality problems in the area in which the public transit provider operates. However, Congress routinely transfers these funds to the Bus/Bus Facilities Program and earmarks them for specific projects under that program.
- Fixed Guideway Modernization Program = \$1.7 billion. These funds are distributed by formula to UZAs for rehabilitation and enhancement projects related to existing rail systems. While FTA has not yet issued the apportionments for these funds, our area may receive between \$15 million-\$20 million, which would be shared by VTA and Caltrain.
- New Starts/Small Starts = \$1.81 billion. These discretionary funds are earmarked by Congress primarily for major rail expansion projects called "New Starts." There is a \$200 million takedown for smaller New-Starts-eligible projects, including bus rapid transit, with a federal share of less than \$75 million. These projects are called "Small Starts." VTA did not request any of these funds in FY 2009.

Finally, the FY 2009 omnibus appropriations legislation provides \$90 million for capital assistance for intercity passenger rail service; and \$1.49 billion for Amtrak operations, capital improvements and debt service.

FY 2010 Transportation Budget Framework: President Obama’s recently released FY 2010 budget includes a framework for transportation that states the intent of the administration to “work with the Congress to reform surface transportation programs both to put the system on a sustainable financing path and to make investments in a more sustainable future, enhancing transit options and making our economy more productive and our communities more livable.” It initiates a new federal commitment to high-speed rail by proposing a five-year, \$5 billion investment to develop high-speed rail corridors across the country, and calls for providing roughly \$800 million to modernize the air traffic control system. Finally, it proposes to change the budgetary treatment of federal surface transportation programs to show both budget authority and outlays as discretionary, in effect ending the funding guarantees for highways and public transit that have been the mainstay of federal transportation finance for several decades. House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) announced his opposition to this idea by stating, “This scoring rule change has been proposed by the Office of Management and Budget (OMB) several times in the past, and each time has been rejected by Congress. To raise this issue again now, when we have important work to do to rebuild our nation’s crumbling infrastructure and create family-wage jobs, is both a contradiction and an unnecessary distraction.”

Health Care: President Obama indicated that he will be flexible in negotiations with Congress and health care providers as he seeks to remake the U.S. health care system. In introducing Kansas Gov. Kathleen Sebelius as his choice to lead the Department of Health and Human Services and Nancy-Ann DeParle to head the White House Office of Health Reform, the President said they will work with lawmakers and stakeholders to craft a solution to the system’s twin problems of rising costs and limited access. He commented that the White House’s emerging health care strategy will involve the following steps:

- Legislation will be written by Congress with input from the Obama Administration, rather than the other way around.
- Republicans will be invited to participate in the process.
- The President will not ditch the current employer-based insurance system.
- The President will try to act fast, before his electoral mandate disappears.

One challenge facing the White House and lawmakers will be how to pay for the changes. President Obama included \$634 billion in his budget—half in tax increases on upper-income people and half in Medicare savings. More may be needed.

Stem Cell Research: President Obama signed an executive order that lifts the limits on human embryonic stem cell research and directs federal agencies to “restore scientific integrity” to their decision-making. The order reverses former President George W. Bush’s 2001 decision to withhold federal tax money for research on newly collected colonies of embryonic stem cells, the master cells from which all tissues are formed. Bush, who opposed the destruction of human embryos necessary to harvest the cells, limited federal funding to 12 stem cell colonies, or lines,

that were in existence at that time. Since then, the number has jumped to hundreds of lines, many specifically created for research into diseases such as diabetes and Parkinson's. Under President Obama's executive order, the National Institute of Health will have 120 days to set new research guidelines, following previous National Academy of Sciences recommendations that require the cells to come from embryos donated by patients with informed consent and with limited compensation.

War in Iraq: President Obama announced that the U.S. combat presence in Iraq will end in August 2010 after about 90,000 troops are withdrawn. The President said he plans to leave a force of 35,000 to 50,000 to advise Iraqi security forces, conduct counter-terrorism missions and protect U.S. personnel. According to the President, the drawdown should signal to the Iraqis that they are responsible for their country's future. President Obama promised that the United States will engage with Iraq's neighbors, including Iran and Syria, to work toward stability in the region. He also pledged to refocus efforts on defeating al-Qaeda in Afghanistan and Pakistan, and to prevent Iran from developing a nuclear weapon.

STATE

State Budget: Federal Economic Stimulus Money: California's share of the federal economic stimulus package could reach nearly \$31.5 billion through mid-2011, but would not be enough in the coming year for the state to avoid tax increases and spending cuts, according to Legislative Analyst Mac Taylor. Testifying before the Assembly Budget Committee, Taylor said the state's health care system looks to gain the most—more than \$9 billion—followed by nearly \$8 billion for education and \$6 billion to help rehabilitate California's overburdened unemployment benefit system. But the impact on the state's General Fund for FY 2010 probably would not be enough to avoid \$1.8 billion worth of income tax increases and nearly \$1 billion in spending cuts approved by the Legislature last month, Taylor said.

Taylor recommended that lawmakers consider wide-ranging options to ensure that the state receives as much economic stimulus money as possible from the federal government, and to ensure that the funds get used wisely. He said legislators should wait to make decisions on tapping into federal funds for education until May, when state finance officials are expected to update their revenue forecasts, and when voters will weigh in on ballot measures tied to the state budget. But in the case of transportation, he noted that the state needs to act quickly to meet the obligation deadlines set by the federal government.

Taylor warned that California's fiscal picture continues to be grim. The budget approved last month by the Legislature and signed by Gov. Arnold Schwarzenegger included tax increases and deep spending cuts to close a \$41 billion shortfall, but, according to Taylor, that may not be enough. "If you look at all of the economic data since when you passed the budget act, it's been pretty much all negative," he told Assembly Budget Committee members. "You should be prepared to see the state's revenues go down."

Another significant issue is whether there will be enough money from Washington, D.C., to limit California's new tax increases and spending cuts that are part of the FY 2010 budget. According to the plan, any federal funds that could be used to alleviate General Fund spending would first

go toward avoiding short-term borrowing and boosting the state's cash reserves. If federal dollars that benefit the General Fund hit \$10 billion or more, then the 0.25 percent increase in personal income taxes would be cut in half; and nearly \$1 billion worth of cuts to health care, social services, state courts, and public universities would be avoided. The final determination in this regard will be made by Treasurer Bill Lockyer and Finance Director Mike Genest.

State Employees: Gov. Schwarzenegger said state offices will stay open every Friday. The announcement ends the state's policy of furloughing 238,000 employees on the first and third Fridays of each month. Instead, they will individually pick their furlough days with management approval.

State offices have been closing on the first and third Fridays since February 6 to comply with the Governor's cost-cutting executive order that required employees to take off an unpaid 16 hours per month. The furloughs were originally scheduled to run through June 2010. Continuing that policy became impractical last month after Service Employees International Union (SEIU) Local 1000 reached a tentative agreement that pares the monthly furloughs for its membership to eight hours. The union represents 95,000 state employees, about 40 percent of the furloughed work force. The SEIU deal still needs to be ratified by the union's membership and approved by the Legislature. Employees outside of SEIU representation will continue two-day-a-month furloughs unless their unions negotiate different terms. According to the Governor, the only practical way to harmonize state operations while employees are on different furlough schedules is to allow departments the leeway of flexible schedules.

REGIONAL

Metropolitan Transportation Commission (MTC): At its March 13 meeting, the MTC Planning Committee postponed adopting Transportation 2035, the long-range regional transportation plan for the nine-county Bay Area. The postponement gives MTC staff more time to address the impact of the economic downturn on revenue projections and funding assumptions over the 25-year life of the plan. The revisions will specifically address new revenue assumptions regarding VTA's 2000 Measure A sales tax program and changes in funding for transit operations, including the recently enacted multi-year cuts to the State Transit Assistance Program (STA). The revised plan will be presented to the full commission on March 25, thereby beginning the public comment period that will run through April 8. MTC staff will seek the Planning Committee's approval of Transportation 2035 on April 10. The full commission will take action on April 22.

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