

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: March 1, 2010

SUBJECT: Weekly Legislative Update: Week of February 22, 2010

FEDERAL

Jobs: The Senate easily approved a \$15 billion jobs bill that focuses on providing tax incentives to businesses in order to encourage them to hire new employees. The measure now goes to the House. It is the first piece of major legislation to win approval in the Senate since the passage on Christmas Eve of the health care overhaul, which was upended last month when the election of Scott Brown (R-MA) cost Democrats their filibuster-proof supermajority. Meanwhile, House leaders have not yet settled on a strategy for proceeding with the bill. The most likely scenario would be for the House to pass the Senate measure, although some members have expressed reservations about that approach. The House approved its own, more robust, \$154 billion jobs package, the so-called “Jobs for Main Street Act,” in December.

The centerpiece of the Senate legislation is a \$13 billion program designed to give companies a break from paying Social Security taxes for the remainder of the year on new employees. If those workers remain on the payroll for at least a year, their employers would also get a \$1,000 tax credit. In addition, the Senate measure calls for extending a tax break that was included in last year’s economic stimulus package to encourage businesses to make capital expenditures. Specifically, the provision allows companies to write off up to \$250,000 in capital investments in 2010, rather than depreciating the costs over time.

The Senate legislation also reauthorizes the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the current law governing federal surface transportation programs, through the end of the calendar year. It provides for a transfer of \$19.5 billion in General Fund revenues to the Highway Trust Fund in order to ensure that the latter remains solvent through the end of FY 2011. However, unlike the House’s “Jobs for Main Street Act,” which calls for appropriating roughly \$37 billion in additional funding for transportation, the Senate bill does not include any new money for highways or public transit. Finally, the Senate legislation extends the Build America Bonds Program, under which the federal government subsidizes infrastructure projects by paying 35 percent of the interest costs from taxable bonds issued by local agencies.

Surface Transportation Programs: On March 2, the Senate approved H.R. 4691, the “Temporary Extension Act of 2010,” which continues SAFETEA-LU through March 28. President Barack Obama subsequently signed this legislation into law. The previous short-term extension of SAFETEA-LU actually ran out on February 28, resulting in a brief two-day period during which the U.S. Department of Transportation and the various modal agencies did not have the legal authority to spend money from the Highway Trust Fund and, therefore, were forced to shut down some of their activities. With the enactment of H.R. 4691, the Federal Transit Administration (FTA) was able to resume processing grants, and employees of the Federal Highway Administration (FHWA) were able to return to work.

Congress can now turn its attention back to completing a longer extension of federal surface transportation programs through December 31. The House and Senate are expected to modify the SAFETEA-LU extension contained in the Senate jobs bill in order to implement a compromise negotiated by congressional leaders related to the distribution of discretionary highway funds. A modified jobs bill could be considered by the House and Senate in the coming days, or the surface transportation extension could be added to another legislative package.

Health Care: President Obama signaled his determination to forge ahead with a Democratic vision of comprehensive health care reform as he unveiled an ambitious proposal that would extend coverage to 31 million people, raise taxes on the wealthy and ratchet up regulations on insurers. The proposal is a carefully calibrated attempt to relaunch a nearly year-long effort that has stalled since the election of Sen. Scott Brown in Massachusetts earlier this year. It tries to combine the separate bills that were narrowly approved by the House and Senate into a final version that could pass muster in both chambers.

Similar to the House and Senate bills, the President’s proposal would require almost everyone to obtain insurance or pay a fine, and would provide income-based subsidies to those who cannot afford it. It would expand Medicaid for the working poor and impose new requirements on insurers who sell policies in a new “exchange,” or marketplace, where those without employer-based benefits could buy coverage.

President Obama’s formal adoption of an approach that is so aligned with the efforts of congressional Democrats acknowledges that the overhaul will draw little to no Republican support, and that the main challenge lies in retaining the support of Democratic lawmakers. Because of the Democrats’ loss of their 60th Senate seat, the overhaul’s likeliest route is for the House to approve the Senate bill with the understanding that the Senate would pass revisions using a maneuver that requires only 51 votes. But for that to work, House Speaker Nancy Pelosi (D-CA) would need to retain the Democrats who voted for the House legislation, as well as replace those who are opposed to the abortion language in the Senate measure.

The imperative of corralling House Democrats is apparent in President Obama’s decision to ratchet back the tax on high-cost insurance plans, the main revenue source in the Senate bill. The White House had championed the so-called “Cadillac tax” as a cost-containment tool, but House Democrats and labor unions oppose it, arguing that it would hit middle-class families and be an easy political target for Republicans. Instead, the House version calls for increasing income taxes on couples earning more than \$1 million. The President’s proposal seeks to scale

back the tax on high-cost plans by raising the threshold from \$23,000 to \$27,500 for family plans that would be taxed, and by delaying the tax until 2018. His proposal makes up the revenue by extending the Medicare tax so that it applies to wealthy taxpayers' income from sources other than wages, such as interest and dividends.

President Obama's proposal adopts, with tweaks, the Senate's more lenient approach to fining large employers who do not provide coverage. It slightly increases the penalty for those without coverage. However, it does not include a "public option," the government-run insurance plan included in the House bill that people could buy instead of private plans.

Touted as a "signature addition" to the health care overhaul, the President is suggesting that a new nationwide authority be created to review insurance rate increases. This recommendation is intended to prevent big rate hikes, such as the 39 percent increase that Blue Cross of California is seeking for many individual policies. In another bid at popular support, the President's proposal would go further than the Senate legislation to fill the so-called "doughnut hole" in the Medicare drug benefit. Currently, when patients reach a certain level of spending on drugs, they must begin paying for their drugs until they reach an extremely high amount of spending, after which their insurance coverage resumes. The Senate bill would fill the gap only halfway. However, under the White House's proposal, the hole in coverage would shrink over a period of several years until it disappears altogether in 2020—a year later than the House version.

President Obama's proposal jettisons the special deal on Medicaid costs that Sen. Ben Nelson (D-NE) secured for his state. Instead, it seeks to address cash-strapped states' concerns about the cost of expanding Medicaid by increasing the federal share of covering newly eligible people to 100 percent of the cost for the first four years, 95 percent for the next two, and 90 percent after 2020. This could help win over governors and state legislators who have until now been ambivalent about the federal overhaul.

STATE

State Budget: Facing a February 22 deadline to respond to Gov. Arnold Schwarzenegger's call for mid-year budget adjustments, the Legislature began chipping away at the state's \$20 billion deficit by passing \$2.8 billion in cuts, fund shifts and other solutions. Although the Governor asked for \$8.9 billion in spending reductions and other changes to the budget over the next 16 months, lawmakers opted not to take up any cuts to public education, and health and human services until later in the year. Some of the more significant changes approved by the Legislature include an \$811 million reduction in funding for prisoner medical costs, a 5 percent cut in state employee payroll, \$182 million in savings by turning over illegal immigrants in state prisons to the federal government, and \$228 million in savings by suspending some mandates for local governments.

Several more controversial measures are expected to be heard in the coming weeks, including a complicated restructuring of state transportation funding that is intended to free up money for the General Fund. Building on an idea that Gov. Schwarzenegger surfaced in January, the proposal consists of the following elements:

Gas Tax Swap: The plan calls for eliminating the state sales tax on gasoline, which constitutes the lone revenue source for Proposition 42 and three of the five revenues sources that currently flow to the Public Transportation Account, and replacing it with a 12.9-cent increase in the per-gallon gasoline excise tax. Gasoline purchases, however, would still be subject to locally imposed sales taxes, such as the ¼-cent Transportation Development Act (TDA) sales tax and Santa Clara County’s ½-cent sales tax for the 2000 Measure A Program. The swap is structured in such a way as to leave some “head room” for delaying the implementation of two previously approved corporate tax breaks until FY 2012 to achieve additional General Fund savings, while at the same time, ensuring that the entire package remains “revenue neutral” so that it could be approved by the Legislature with a simple majority vote.

In terms of the distribution of the revenues that would be generated by the 12.9-cent-per-gallon increase in the gasoline excise tax, debt service for highway bonds would be taken off the top. In FY 2011, the remaining revenues would be split 50 percent to the State Transportation Improvement Program (STIP), which funds larger-scale highway and public transit projects, and 50 percent to cities and counties for local streets and roads. Beginning in FY 2012, the distribution of these revenues would change as follows:

- 30 percent to the STIP.
- 40 percent for local streets/roads.
- 30 percent to the State Highway Operation and Protection Program (SHOPP), which funds rehabilitation projects on the state highway system.

Also under the plan, the Board of Equalization would be required to adjust the gasoline excise tax rate on an annual basis to ensure that it would compensate for the growth in revenues that the STIP and local streets/roads would have realized under Proposition 42’s gasoline sales tax.

Under this swap proposal, the winners would be the General Fund, which would be relieved of the obligation of having to cover highway bond debt service, and the SHOPP, which would receive new money. In the case of the STIP and local streets/roads, the intent is to, at a minimum, hold them harmless. Meanwhile, public transit would be the big loser because three of the Public Transportation Account’s revenue sources would be eliminated without any backfill.

Diesel Sales Tax: The sales tax on diesel fuel purchases would be retained for the Public Transportation Account. In FY 2011, this sales tax is expected to generate roughly \$315 million, which would be added to the current balance in the account. For the rest of FY 2010 and for FY 2011, this balance would be distributed as follows:

- \$400 million to the State Transit Assistance Program (STA), the only state-funded program for public transit operating and maintenance expenses.
- \$396 million for high-speed rail/transit bond debt service, thereby relieving the General Fund of this obligation.
- Fully funding the operations and maintenance of California’s intercity rail system, including the Capitol Corridor service, as well as the so-called “state transit programs,” which primarily consist of the mass transit planning activities of Caltrans and the

California Transportation Commission (CTC), and the passenger rail safety responsibilities of the California Public Utilities Commission (CPUC).

Beginning in FY 2012, the diesel sales tax rate would be increased to 6.75 percent, in conjunction with a corresponding drop in the per-gallon diesel fuel excise tax to ensure that consumers would feel no impact at the pump. High-speed rail/transit bond debt service would continue to have first call on the revenues generated by the diesel sales tax. Any remaining revenues would be split 75 percent to STA, and 25 percent to intercity rail and the other state transit programs. The intent of the plan is for the diesel sales tax to fully fund intercity rail operations/maintenance and the state transit programs, while at the same time, ensuring a minimum annual STA Program of \$350 million. However, in FY 2012 and FY 2013, the diesel sales tax would fall short of accomplishing those objectives. Therefore, the plan calls for appropriating State Highway Account revenues that are not restricted by Article XIX of California's Constitution to the Public Transportation Account in order to fill in the gap. Beginning in FY 2014, it is anticipated that those appropriations would no longer be necessary. In fact, it is projected that diesel sales tax revenues would increase, allowing for annual STA funding to grow over time, eventually exceeding \$500 million in FY 2021.

Light-Duty Vehicle Mitigation Fee: The plan authorizes metropolitan planning organizations (MPOs), such as the Metropolitan Transportation Commission (MTC) in the Bay Area, to impose a per-gallon "light-duty vehicle mitigation fee" at the pump for a period not to exceed 30 years. The amount of this fee would be left up to each MPO. The use of the fee revenues would be limited to public transit (including operations and maintenance), and bicycle and pedestrian programs, provided that they are: (a) consistent with the MPO's regional transportation plan (RTP); and (b) part of the MPO's sustainable communities strategy adopted pursuant to the requirements of SB 375 (Steinberg). The fee must be approved by a majority vote of the electorate where it is intended to be imposed. In the case of the Bay Area, while MTC could suggest imposing the fee in each of the nine counties in the region, it would take effect only in those counties where it is approved by a majority vote.

The Assembly passed the swap plan on February 22, but it has not yet cleared the Senate, primarily because Gov. Schwarzenegger has not given a clear signal that he would sign it. Legislative leaders are currently negotiating with the Governor's Office in an attempt to fine-tune several aspects of the plan in order to ensure a gubernatorial signature.

REGIONAL

Metropolitan Transportation Commission (MTC): At its February 20 meeting, the commission approved committing \$10 million in regional Transportation for Livable Communities money to establish a land acquisition/land banking financing fund. The purpose of this fund is to maximize the production of affordable housing near public transit stations. MTC's financial contribution would be leveraged at a ratio of at least three-to-one by various forms of grants that would be raised by the fund manager. The money would be spent in Priority Development Areas on projects that have the greatest potential to deliver affordable housing. According to MTC, similar funds have been established in other large metropolitan areas throughout the United States over the last six years. Together these funds have brought in millions in new funding from

foundations, public agencies, program-related investment funds, and commercial lenders to support the development of affordable housing.

The commission also approved its Transit Coordination Plan. This plan identifies transit coordination requirements with which public transit agencies receiving funds from MTC must comply. The purpose of the plan is to: (a) establish the expectations and requirements for each Bay Area public transit agency with respect to implementing the recommendations of MTC's Transit Connectivity Plan; (b) maintain other transit coordination programs; (c) outline the process by which MTC would involve public transit agencies in changes to coordination requirements; and (d) establish the process for commission action in the event of public transit agency non-compliance with these implementation requirements.

NOTE: Also contributing to this report were Steve Palmer with Van Scoyoc Associates; Mark Watts with Smith, Watts & Company; and Scott Haywood, VTA's Policy and Community Relations Manager.



MEMORANDUM

Writer's Direct Telephone: (408) 321-7005

TO: VTA Board of Directors

THROUGH: Michael T. Burns
General Manager

FROM: Donald A. Smith, Jr.
Chief Operating Officer

DATE: March 1, 2010

SUBJECT: VTA, Inter-agency Partners, and Contracted Services Ridership for January 2010

January 2010 total monthly system ridership for bus and light rail was 3,086,130, a decrease of 14.7% over January 2009. The average weekday system ridership for January 2010 was 13.5% less than January 2009. January 2010 had one less weekday compared to January 2009. Service reductions were implemented January 11, 2010.

Bus average weekday ridership for January 2010 was 94,645, a 13% decrease compared to January 2009. Light rail recorded an average weekday ridership of 26,507 for January 2010, a decrease of 15.5% compared to January 2009.

With the exception of Dumbarton Express, all of VTA's inter-agency partners and contracted services experienced average weekday ridership decreases in January 2010.

<u>VTA Ridership</u>	January 2010	January 2009	Percent Change
VTA System Boardings	3,086,130	3,617,595	-14.7%
System Average Weekday	121,152	140,130	-13.5%
Bus Boardings	2,385,680	2,791,032	-14.5%
Bus Average Weekday	94,645	108,762	-13.0%
Light Rail Boardings	700,450	826,563	-15.3%
Light Rail Average Weekday	26,507	31,368	-15.5%

<u>Inter-agency Partners Ridership</u>	January 2010	January 2009	Percent Change
Dumbarton Express Boardings	18,994	19,461	-2.4%
Dumbarton Average Weekday	950	927	2.5%
Highway 17 Express Boardings	23,695	24,835	-4.6%
Highway 17 Average Weekday	911	933	-2.4%
Monterey-San Jose Express Boardings	2,068	2,392	-13.5%
Monterey-San Jose Average Weekday	67	75	-10.7%
Caltrain Boardings	920,103	981,438	-6.2%
Caltrain Average Weekday	35,584	37,522	-5.2%
Altamont Commuter Express Boardings	52,282	59,454	-12.1%
ACE Average Weekday	2,614	2,973	-12.1%
Capitol Corridor Boardings	117,860	128,684	-8.4%

<u>Contracted Services Ridership</u>	January 2010	January 2009	Percent Change
Paratransit Boardings	69,453	84,463	-17.8%
Paratransit Average Weekday	3,043	3,541	-14.1%
ACE Shuttles Boardings	17,411	18,469	-5.7%
ACE Shuttles Average Weekday	871	923	-5.6%
IBM/Hitachi Light Rail Shuttle Boardings	1,666	2,069	-19.5%
IBM/Hitachi Shuttle Average Weekday	83	99	-16.2%