

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: August 15, 2011

SUBJECT: Weekly Legislative Summary: Week of August 8, 2011

FEDERAL

Debt Limit: President Barack Obama said he will make recommendations in the next few weeks to the new bipartisan, bicameral Joint Select Committee on Deficit Reduction that was created under the Budget Control Act of 2011 to develop alternatives for reducing the federal deficit by \$1.2 trillion to \$1.5 trillion over the next 10 years. The President's recommendations are likely to consist of a combination of cuts to entitlement programs and options for increasing revenues, similar to the proposals that he pushed during the recently concluded negotiations on raising the federal government's debt limit. Those proposals include modest cuts to Medicare, including a gradual increase in the eligibility age from 65 to 67; a change in the inflation index that could reduce Social Security cost-of-living increases; and the elimination of a number of tax breaks aimed at upper-income Americans and special interests.

The Joint Select Committee on Deficit Reduction will consist of six Democrats, three each from the House and Senate, and six Republicans, three each for the House and Senate. Under the provisions of the Budget Control Act, the Joint Committee must vote to approve its deficit reduction plan by November 23. Then a vote on the Joint Committee's plan must occur in the House and Senate on or before December 23. Should Congress fail to pass the recommendations of the Joint Committee, \$1.2 trillion in across-the-board spending cuts would automatically be implemented beginning in 2013. The automatic cuts would be split equally between security and non-security spending.

Surface Transportation Authorization: Despite some recent activity by the House Transportation and Infrastructure Committee, and the Senate Environment and Public Works Committee, a multi-year authorization bill to replace the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the current law governing federal surface transportation programs, has not been formally introduced in either chamber of Congress. This situation makes it virtually impossible for Congress to pass a multi-year authorization measure before the current short-term extension of SAFETEA-LU expires on September 30. Therefore, another short-term extension of SAFETEA-LU will be needed to allow the U.S. Department of Transportation and its modal agencies

to continue to operate, and to extend the ability to collect the federal gas tax and other federally imposed transportation taxes/fees that support the Highway Trust Fund.

SAFETEA-LU actually expired on September 30, 2009. However, in the absence of an agreement on a long-term authorization bill to replace it, SAFETEA-LU has been extended seven times since then. While the previous seven extensions of SAFETEA-LU were not controversial and free of extraneous policy provisions, some speculate that the eighth may not be so easy. The recent shutdown of the Federal Aviation Administration (FAA), despite a belief that Congress would never let that happen, has alarmed surface transportation stakeholder groups about the possibility that Republicans might attempt to use the expiration of the gas tax as leverage over the competing surface transportation authorization proposals being developed in the House and Senate. In fact, House Transportation and Infrastructure Committee Chairman John Mica (R-FL), who continues to insist on a six-year authorization bill that lives within existing Highway Trust Fund revenues, was recently quoted as saying he would “use every lever possible” to get a long-term authorization bill done.

Also of concern are recent comments made by anti-tax activist Grover Norquist, who indicated that he is considering whether to lead a Tea Party effort to block the extension of the federal gas tax, claiming that it is a tax increase. Norquist has strong support among House Republicans, particularly 87 first-termers, for his “no new taxes” pledge.

U.S. Credit Rating: Standard & Poor’s (S&P) took the unprecedented step of lowering the top credit rating that the United States has held for nearly a century. In downgrading the federal government’s long-term credit rating from AAA to AA+, S&P explained that the move “reflects our opinion that the fiscal consolidation plan the Congress and the Administration recently agreed to falls short of what, in our view, would be necessary to stabilize the government’s medium-term debt dynamics.” The ratings agency went on to state, “More broadly, the downgrade reflects our view that the effectiveness, stability, and predictability of American policymaking and political institutions have weakened at a time of ongoing fiscal and economic challenges to a degree more than we envisioned when we assigned a negative outlook to the rating on April 18, 2011.” The other two major ratings agencies—Moody’s Investor Service and Fitch Ratings—have not taken any action yet. Of the \$9.4 billion in publicly traded U.S. government debt, 72 percent is long-term.

Analysts noted that it could be difficult for the U.S. government to regain the AAA rating from S&P anytime soon, especially given the nation’s current economic challenges. S&P implied that it would take years to see a meaningful change in the U.S. fiscal situation and in the federal government’s ability to cut the budget. Its report states, “We could lower the long-term rating to ‘AA’ within the next two years if we see that less reduction in spending than agreed to, higher interest rates, or new fiscal pressures during the period result in a higher general government debt trajectory than we currently assume in our base case.”

The 10-year Treasury note is considered the basis for all other interest rates. Therefore, higher rates on those notes and other long-term U.S. debt could make it more expensive for state and local governments, companies and consumers to borrow money. However, it is not clear yet whether the S&P downgrade will have an effect on rates. Treasury securities are a foundation of the U.S. financial system and are still considered to be one of the safest investments in the world.

Fuel Standards: President Obama announced new fuel-efficiency standards for big rigs; heavy duty pick-up trucks and vans; and vocational vehicles, such as transit buses, garbage trucks and delivery trucks that are built in 2014 through 2018. They are intended to complement standards that were recently issued for cars and light duty trucks. Under the standards, big rigs would be required to achieve up to a 20 percent reduction in fuel consumption and greenhouse gas emissions by model year 2018. For heavy duty pick-up trucks and vans, separate standards are set for gasoline-powered and diesel vehicles. These vehicles would be required to achieve up to a 15 percent reduction in fuel consumption and greenhouse gas emissions by model year 2018. Meanwhile, vocational vehicles would have to cut fuel consumption and emissions by about 10 percent by model year 2018.

STATE

Redevelopment Agencies: On August 11, the California Supreme Court agreed to review a lawsuit filed by the California Redevelopment Association, the League of California Cities, the city of San Jose, and Union City challenging two bills that seek to eliminate local redevelopment agencies unless they make payments to the state. The bills, which are expected to save the General Fund \$1.7 billion in FY 2012 and \$400 million each year thereafter, were enacted as part of the budget package. The lawsuit contends that the bills violate Proposition 22, a ballot initiative approved by the voters in November 2010 that prohibits the state from diverting redevelopment agency money to the General Fund.

The Supreme Court's acceptance of the case means it will not have to go through the lower and appellate courts first. It is expected that the court will rule on the matter by January 15, 2012. In the meantime, the state's 400 redevelopment agencies will be able to continue to operate; however, they cannot incur new debt, purchase property or enter into new contracts during that time.

Presidential Election: The Electoral College, the system used for more than 220 years to pick American presidents, has been the subject of criticism since George W. Bush beat Al Gore despite losing the popular vote. On August 8, California added its clout to a movement to overturn it.

Calling election by popular vote "basic, fair democracy," Gov. Jerry Brown signed legislation backing an interstate compact to award the state's 55 electoral votes to the candidate winning the most votes nationwide. The bill, AB 459 (Hill), would take effect only if states controlling a majority of the nation's 538 electoral votes agree. In addition to California, eight other states and the District of Columbia have signed on, committing their 74 electoral votes.

Supporters of AB 459 contend that California is at a severe disadvantage under the current "winner-take-all" system that awards all of the state's electoral votes to the presidential candidate who finishes first in statewide balloting. They believe that because Democrats hold a 13-point advantage in voter registration in California, there is little chance of a GOP presidential candidate winning here and, therefore, little reason for either party to campaign extensively in the state. Supporters argue that AB 459 would make California more relevant in presidential politics. Defenders of the Electoral College counter that it keeps candidates from ignoring small states and rural areas.

AB 459 passed the Legislature with little Republican support. Former Gov. Arnold Schwarzenegger vetoed previous versions of the bill in 2006 and 2008, saying they were "counter to the tradition of our

great nation, which honors states' rights." He also noted that he could not endorse awarding the state's electoral votes to a presidential candidate a majority of Californians may not support.

State Assembly: Publishers of The Sacramento Bee and Los Angeles Times jointly filed a lawsuit challenging the Assembly's refusal to release records of lawmakers' current office budgets and spending. The legal fight stems from allegations made by Assembly Member Anthony Portantino (D-La Canada-Flintridge) that his budget was cut by Assembly Speaker John Perez (D-Los Angeles) as punishment for his casting the lone Democratic vote against the FY 2012 budget package. Portantino, The Bee and the Times, among others, submitted requests recently to the Assembly under the Legislative Open Records Act seeking records that could shed light on Portantino's allegations of punishment. The Assembly Rules Committee released information about expenditures from years past, but it objected to producing documents related to this year's office budgets.

In declining to release the documents, the Assembly Rules Committee cited exemptions in state law for the Legislature's "preliminary drafts, notes or legislative memoranda," and correspondence to lawmakers' offices. The committee further noted that projections of members' current budgets and spending can change throughout the year, may contain confidential personnel information, and are used in private communications to lawmakers. The lawsuit argues that the Assembly's records document public resources used for public business. Therefore, refusal to release them violates the constitutional right to access information about government conduct.

Term Limits: In a recent report, the Center for Governmental Studies concluded that the vision of term-limit advocates of "citizen legislators" dominating Sacramento has not come to pass. According to the report: "California's term limits have not created an environment in which citizen legislators temporarily serve in the state Capitol and then return to the private sector. Professional legislators continue to seek careers in other government positions—a form of political musical chairs for governmental office. Indeed, politicians are now moving faster and faster to the music. Term limits have converted the state Legislature into a 'farm team' of potential candidates for other public offices."

In comparing legislators before and after term limits, the Center for Governmental Studies found the following:

- A growing portion of newcomers to the Legislature are not citizen lawmakers at all, but rather politicians who have served in local government. In 1990, as voters were approving term limits, 28 percent of those elected to the Assembly came from local government. By 2010, the number had risen to 68 percent. For the Senate, the number rose during that period from 35 percent to 70 percent.
- Termed-out members are just as likely to seek other public-sector jobs as were their pre-term-limit predecessors. In the 1980s, 60 percent of Assembly members and 30 percent of senators, upon leaving the Legislature, either ran for another office or landed some government appointment. In 2008, 60 percent of termed-out Assembly members and 40 percent of termed-out senators hung onto government employment.

Under California's term limits, among the most restrictive in the nation, three two-year terms are allowed in the Assembly and two four-year stints are permitted in the Senate. According to the Center for Governmental Studies, these restrictive term limits have had the following consequences:

- Newly elected lawmakers start plotting to capture their next office even before they are sworn in to the one they have just won.
- For legislators facing term limits, there seems to be little sense of "being in it for the long haul." Therefore, there is a tendency to punt problems to their successors, rather than solving them.
- Compared to legislators before term limits, lawmakers today are less experienced at legislating, less knowledgeable about public policy, weaker in dealing with the governor, and more dependent on their staffs and lobbyists.

The Los Angeles Chamber of Commerce and the Los Angeles Labor Federation are sponsoring a term-limits reform initiative that will be on the next statewide ballot, probably in June 2012. The measure would allow legislators to serve a total of 12 years, rather than the current 14. However, all of the time could be spent in one house. The sponsors of the initiative contend that this would allow legislators to serve longer on committees and in leadership roles, and to become more knowledgeable and effective. Current lawmakers would not be impacted by the measure.

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.