

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: November 21, 2011

SUBJECT: Weekly Legislative Summary: Week of November 14, 2011

FEDERAL

FY 2012 Appropriations: On November 18, President Barack Obama signed a “mini omnibus” appropriations bill that contains FY 2012 funding for federal transportation, housing and urban development, commerce, justice, science, and agriculture programs. The legislation also includes a continuing resolution to allow those federal agencies not covered by the “mini omnibus” to keep their doors open through December 16, giving Congress nearly a month to wrap up its work on the remaining appropriations bills for the federal fiscal year that began on October 1.

For surface transportation, the “mini omnibus” provides the following:

- \$39.144 billion for federal-aid highway programs, about \$2 billion less than the amount that was appropriated in FY 2011.
- \$10.608 billion for public transit, a 3 percent increase over the level of spending that was enacted for FY 2011.
- \$8.361 billion for transit formula grant programs, a slight \$18 million increase over last fiscal year. The legislation includes language that allows up to \$100 million in Section 5307 Urbanized Area Formula (UZA) Program funds to be used for fuel or electricity costs associated with the operation of public transit vehicles, though it is unclear how the Federal Transit Administration (FTA) will implement this provision.
- \$1.955 billion for the New Starts/Small Starts Program, \$358 million more than the FY 2011 level of spending. Of this total, the legislation earmarks \$1.37 billion for the 13 projects with existing Full Funding Grant Agreements (FFGAs). It sets aside \$510 million for FTA to allocate to projects that are expected to execute their FFGAs sometime before the end of FY 2012, which includes the BART Silicon Valley Project. The legislation prevents FTA from entering into new FFGAs for projects with a federal share that exceeds 60 percent, which does not impact the BART Silicon Valley Project. Finally, the language that originally surfaced in the House directing FTA not to

allocate any New Starts funds in FY 2012 to projects that do not have a signed FFGA by November 1, 2011, did not make it into the “mini omnibus.”

- \$500 million for the Transportation Investment Generating Economic Recovery Program (TIGER), a multimodal competitive grant program administered by the U.S. Department of Transportation that was created under the American Recovery and Reinvestment Act of 2009 (ARRA) to fund projects of national, statewide or regional significance. This program received \$527 million in FY 2011.
- No appropriation for the Transit Investments for Greenhouse Gas and Energy Reduction Program (TIGGER), another competitive grant program created under ARRA that is geared toward funding public transit projects that either reduce greenhouse gas emissions or improve energy efficiencies. TIGGER, which is overseen by FTA, got \$50 million in FY 2011.
- No funding for high-speed and intercity passenger rail for the second consecutive fiscal year.

Surface Transportation Authorization: On November 17, House Speaker John Boehner (R-OH) held a news conference to announce plans to move a five-year surface transportation authorization bill through the House by the end of the calendar year. According to Boehner, the legislation will be titled the “American Energy and Infrastructure Jobs Act,” and will be funded through expanded offshore oil and gas drilling, expanded oil shale production, and Arctic National Wildlife Reserve (ANWR) oil exploration. The bill’s total funding level and legislative text have not yet been released. Democrats in the House and Senate have called the legislation a nonstarter due to the controversy surrounding the proposed funding source.

Deficit Reduction: The recommendations of the Joint Select Committee on Deficit Reduction are officially due by midnight on November 23. Reports from committee members indicate that barring a last-minute breakthrough, the group is unlikely to come up with the required plan to reduce federal budget deficits by at least \$1.2 trillion over the next 10 years. If the so-called “Super Committee” does not reach an agreement, and no further changes are made to the debt ceiling legislation that was enacted earlier this year, across-the-board cuts known as “sequestration” would go into effect in January 2013. In addition, failure to produce a deficit reduction bill would leave Congress without a clear avenue for passing numerous pieces of year-end legislation, including extensions of: (a) the Bush-era tax cuts; (b) the payroll tax cut; (c) unemployment benefits; (d) popular business tax breaks; (e) relief from the alternative minimum tax; and (f) Medicare payments to doctors.

STATE

State Budget: News about the state budget continues to be dire. On November 16, the Legislative Analyst’s Office (LAO) released its fiscal outlook for the remainder of the current fiscal year and for FY 2013. This assessment indicates that General Fund revenues will be \$3.7 billion below the level assumed in the FY 2012 budget passed by the Legislature and signed into law by Gov. Jerry Brown in June of this year. The LAO points out that under the provisions of the budget, this revenue shortfall would translate into \$2 billion in “trigger” cuts to various state programs. In addition, the LAO is estimating an FY 2013 budget deficit of \$13 billion.

The enacted FY 2012 budget included a \$4 billion assumption of higher revenues, backed by “trigger” cuts in case some or none of that money materializes. The budget requires the Department of Finance to certify on December 15 whether the \$4 billion projection is accurate. The department is required to choose between its own forecast and that of the LAO, whichever is higher. The “trigger” cuts were organized into tiers based on how much of the extra \$4 billion comes in. The cuts are contingent on the following conditions:

Tier 1: If \$3 billion to \$4 billion in higher revenues is realized, the state would not impose additional cuts and roll over any balance of the problem into the FY 2013 budget.

Tier 2: If the state receives \$2 billion to \$3 billion, it would impose about \$600 million in cuts and roll over the remainder into the FY 2013 budget. The \$600 million in reductions would include: (a) \$100 million to the University of California; (b) \$100 million to the California State University system; (c) \$30 million to community colleges, triggering a \$10/unit fee hike; (d) \$100 million to the In-Home Supportive Services Program; (e) \$100 million to the Department of Developmental Services; and (f) \$80 million to public safety programs.

Tier 3: If the state receives less than \$2 billion, it would impose as much as \$1.9 billion in cuts in addition to those identified in “Tier 2,” including: (a) a \$1.5 billion reduction to public education by allowing K-12 schools to drop seven classroom days; (b) a \$248 million reduction through the elimination of school bus transportation; and (c) a \$72 million cut to community colleges.

All cuts would take effect January 1, 2012, except for the school-year reduction, which districts could impose starting February 1, 2012. In its report, the LAO notes that \$2 billion in “trigger” cuts would include all of the Tier 2 reductions and about three-fourths of the Tier 3 cuts. However, the Governor and Legislature could intervene before the cuts take place.

In a written statement, Finance Director Ana Matosantos said: “The LAO report acknowledges the tough work that has been done to cut the state’s deficit in half, but that there is more tough work ahead. The budget the Governor signed recognized that economic uncertainty could force the trigger cuts to take effect. Some level of trigger cuts will likely occur, but the exact amount will be known in December.” Although the Department of Finance’s forecast is not due until December 15, Matosantos’ statement serves as an early acknowledgment that the state is heading toward mid-year budget cuts.

While state funding for transportation is not impacted by the “trigger” cuts as enacted, the LAO’s assessment raises one issue of concern. The complicated transportation funding swap ended up designating vehicle weight fees as the revenue source for making debt service payments on transportation-related general obligation bonds, thereby achieving significant General Fund savings. In its report, the LAO projects that by FY 2017, transportation bond debt service costs will exceed annual weight fee revenues, creating an obligation for the General Fund.

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