

Date: \_\_\_\_\_ December 5, 2007

Committee Meeting Date: \_\_\_\_\_ N/A

Board Meeting Date: \_\_\_\_\_ January 3, 2008

**BOARD MEMORANDUM**

**ACTION ITEM**

**TO:** Santa Clara Valley Transportation Authority  
Board of Directors

**THROUGH:** Michael T. Burns  
General Manager

**FROM:** Kurt Evans  
Federal/State Government Affairs Manager

**SUBJECT:** 2008 State Legislative Program

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**Policy-Related Action: Yes**

**Government Code Section 84308 Applies: No**

**RECOMMENDATION:**

Approve the 2008 State Legislative Program for the Santa Clara Valley Transportation Authority (VTA).

**BACKGROUND:**

The Santa Clara Valley Transportation Authority (VTA) annually adopts a State Legislative Program to provide direction for its legislative and policy activities in Sacramento for the year. The purpose of the State Legislative Program is to establish statutory, regulatory and administrative policies and principles to guide VTA's advocacy efforts at the state level. The program is meant to be flexible in order to give VTA the ability to pursue unanticipated legislative and administrative opportunities that may present themselves during the course of the year, and to respond expeditiously to the dynamic political and policy processes in Sacramento.

The 2008 State Legislative Program is divided into the following sections:

1. Infrastructure Bonds.
2. Existing Transportation Funding Sources.
3. Future Transportation Investments.
4. Project Delivery.
5. California Public Utilities Commission.
6. State Transportation Improvement Program.
7. High-Speed Rail.
8. Transit-Oriented Development.
9. Transportation and the Environment.
10. Sponsored Bills.

Each section of the program consists of a summary of the relevant issues and a series of advocacy principles.

**DISCUSSION:**

The highlights of VTA's 2008 State Legislative Program are summarized as follows:

- Monitor the development of bills related to the implementation of Proposition 1B by the Legislature, advocate for the highest Proposition 1B appropriations level possible during the FY 2009 state budget process, and monitor discussions within the Schwarzenegger Administration and the Legislature concerning the distribution of Proposition 1B bond revenues among the various program categories in FY 2009.
- During the deliberations on the FY 2009 state budget, support the full transfer of gasoline sales tax revenues from the General Fund to the Transportation Investment Fund (TIF) pursuant to Proposition 42, and oppose the loaning or diversion of transportation dollars to the General Fund.
- Support the efforts of the California Transit Association to develop a consensus on a constitutional amendment to permanently protect gasoline sales tax "spillover" revenues for public transportation purposes.
- Ensure that any previous loans from the various state transportation accounts to help with prior-year General Fund deficits are repaid in full as expeditiously as possible, and as originally specified in state law.
- Support legislative proposals and policies that ensure that adequate levels of funding are available for operating, maintaining, rehabilitating, and improving California's transportation infrastructure, including state highways, public transit, local streets and roads, bicycle and pedestrian facilities, transportation corridor management strategies, and intelligent transportation systems.
- Support legislative proposals and policies that enhance the ability of local project sponsors and Caltrans to effectively manage and expedite the delivery of transportation projects.
- Work with the California Transit Association and other rail transit operators in the state to streamline the public rail transit safety oversight programs of the California Public Utilities Commission (CPUC), in particular the commission's process for approving rail crossing applications.
- Oppose legislative proposals and policies that would take away any amount of State Transportation Improvement Program (STIP) programming responsibility from the regions, or that are inconsistent with the principles and intent of SB 45 (Kopp).
- Continue to participate in the Silicon Valley High-Speed Rail Coalition to support not only high-speed rail in general, but also a Pacheco Pass alignment into the Bay Area.

- Support legislative proposals and policies that encourage transit-oriented development and other smart growth initiatives that enhance the effectiveness of public transit and other alternative modes of transportation.
- Ensure that any legislation to implement AB 32 (Nunez), the Global Warming Solutions Act of 2006, is structured in a way that assists the Bay Area in achieving its own greenhouse gas emissions and mobility goals.
- Monitor the implementation of the California Air Resources Board's Urban Transit Bus Fleet Rule to ensure that these efforts are consistent with VTA's environmental policies and clean-fuels strategies, and do not impose any unnecessary financial and administrative burdens on public transit operators.

**ALTERNATIVES:**

It is necessary for VTA to have a State Legislative Program in place to be prepared to address the policy and legislative issues that may arise in Sacramento during the coming year. The Board of Directors may elect to add other elements to VTA's 2008 State Legislative Program, or to modify or delete elements contained in the recommended program.

**FISCAL IMPACT:**

There is no fiscal impact directly related to this recommendation.

Prepared By: Kurt Evans  
Federal/State Government Affairs Manager

**SANTA CLARA  
VALLEY TRANSPORTATION  
AUTHORITY**

**2008 STATE LEGISLATIVE  
PROGRAM**



**Government Affairs Office**  
3331 North First Street  
San Jose, California 95134-1906  
Telephone: (408) 321-5556  
Fax: (408) 955-9723

## EXECUTIVE SUMMARY

The Santa Clara Valley Transportation Authority (VTA) annually adopts a State Legislative Program to provide direction for its legislative and policy activities in Sacramento for the year.

The purpose of the State Legislative Program is to establish statutory, regulatory and administrative policies and principles to guide VTA's advocacy efforts at the state level. The program is meant to be flexible in order to give VTA the ability to pursue unanticipated legislative and administrative opportunities that may present themselves during the course of the year, and to respond expeditiously to the dynamic political and policy processes in Sacramento.

The 2008 State Legislative Program is divided into the following sections:

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Sponsored Bills.

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## INFRASTRUCTURE BONDS

Proposition 1B, which was approved by the voters of California on November 7, 2006, authorizes the state to sell \$19.925 billion in general obligation bonds over the next 10 years to fund the following transportation purposes:

- *Congestion Reduction, Highway Improvements, Local Roads*: Capital improvements to reduce congestion and increase capacity on state highways and local roadways.
- *Public Transportation*: Capital improvements to local/regional public transit services and to the state's intercity rail system.
- *Goods Movement*: Projects to improve the movement of goods through California's ports, along the state highway and rail systems, and between California and Mexico.

- Air Quality: Projects to improve air quality by reducing emissions related to goods movement, and by replacing or retrofitting school buses.
- Safety, Security and Disaster Response: Projects to increase protection against a security threat or improve disaster response capabilities on public transit systems; grants to improve the safety of railroad/highway grade crossings; seismic retrofit work on local bridges, ramps and overpasses; and projects to improve security and disaster planning at publicly owned ports, harbors and ferry terminals.

In total, 13 different program categories would receive funding under Proposition 1B. These categories represent a combination of existing programs that are severely underfunded, such as the State Transportation Improvement Program (STIP) and the State Highway Operation and Protection Program (SHOPP), and several new programs to address some of California's key emerging transportation needs—for example, goods movement; corridor mobility; public transit security, safety and disaster response; and emissions reductions from the transportation sector.

Under Proposition 1B, the method for distributing bond revenues to individual program categories varies. In some cases, such as the STIP, the funding would be allocated to projects in accordance with the process in existing law. In other cases, such as a re-invigorated State-Local Partnership Program, the Legislature is required to pass implementation bills to define the process for allocating the funds. Finally, some programs—for example, Corridor Mobility Improvements—will be competitive in nature. In these cases, projects will be nominated and submitted to the California Transportation Commission (CTC) or some other implementing agency, which will then be responsible for selecting the actual projects to receive funding based on guidelines and a set of performance criteria.

In 2008, the implementation of Proposition 1B will play out in three different arenas:

1. Legislature: It is expected that lawmakers will consider bills to further define the allocation methodology for the State-Local Partnership, Transit Capital and Trade Corridor Improvement Programs.
2. CTC: The commission will develop a specific program of projects for Trade Corridor Improvements and funding priorities for other program categories.
3. FY 2009 State Budget Process: The Schwarzenegger Administration and the Legislature will determine the amount of Proposition 1B bond revenues that will be appropriated in the new fiscal year and how these revenues will be distributed among the various program categories.

Advocacy Principles: As part of its 2008 State Legislative Program, VTA will:

- *Monitor the development of implementation bills by the Legislature for the State-Local Partnership, Transit Capital and Trade Corridor Improvement Programs to ensure that there will be opportunities for VTA to seek and secure funding under these programs for high-priority projects within Santa Clara County.*
- *As part of the FY 2009 state budget process, advocate for the highest Proposition 1B appropriations level possible, as well as monitor discussions within the Administration and Legislature concerning the distribution of bond revenues among the various program categories.*

## **EXISTING TRANSPORTATION FUNDING SOURCES**

In recent years, transportation funding in California has been plagued by uncertainty and instability. Between FY 2003 and FY 2005, more than \$5 billion in transportation money was loaned or transferred to the General Fund to help address state budget deficits. This loss of revenue negatively impacted the ability of Caltrans and local agencies to delivery Traffic Congestion Relief Program (TCRP), STIP and SHOPP projects. It also stemmed the flow of dollars for transit operations and capital projects through the Public Transportation Account, and for local roadway projects through Proposition 42.

The situation improved in FY 2006 and FY 2007, when Gov. Schwarzenegger and the Legislature agreed not to suspend Proposition 42 and to repay a significant portion of outstanding loans owed to the various state transportation accounts earlier than specified in state statutes. In addition, California voters approved Proposition 1A, a constitutional amendment that limits the ability of the Governor and Legislature to suspend Proposition 42 in the future.

However, in FY 2008, another large General Fund deficit materialized and, as a result, the budget turned out to be a mixed bag for transportation. On the positive side, transportation benefited from full funding of Proposition 42, an augmentation to the 2006 STIP, additional funding for SHOPP, and authorizations and appropriations for most Proposition 1B bond categories. On the negative side, the FY 2008 budget posed serious concerns for public transit, with nearly \$1.3 billion in Public Transportation Account revenues being redirected to assist in balancing the General Fund. This diversion not only impacted public transit funding through the State Transit Assistance Program (STA), but it also reverberated throughout the STIP, constraining FY 2008 allocations for both public transit and highways projects, and squeezing the Fund Estimate for the next round of STIP programming.

Unfortunately, the state's fiscal condition has worsened significantly since the enactment of the FY 2008 budget last August. The housing slump, lower tax revenues, a legal settlement to repay retired school teachers, a pay increase for prison guards, the unexpectedly high cost of fighting wildfires in Southern California, and other factors impacting revenues and expenditures have eroded the budget's \$4 billion reserve. Projections indicate that California will end the current fiscal year at least \$1.8 billion in the hole. Furthermore, absent any changes, the gap between revenues and expenses in FY

2009 is expected to be \$8 billion or more, bringing the total deficit facing the Governor and lawmakers to roughly \$10 billion.

Given these grim fiscal circumstances, protecting transportation dollars for their intended purpose will once again be a top priority for VTA and the transportation community in 2008. Although the passage of Proposition 1A is an important step, it does not completely close the door on the possibility of Proposition 42 gasoline sales tax revenues being loaned for non-transportation uses. Moreover, Public Transportation Account “spillover” revenues have no constitutional protections whatsoever and, therefore, remain vulnerable to diversion to the General Fund. Finally, roughly \$2 billion in transportation revenues that were loaned to the General Fund in prior fiscal years still must be repaid.

*Advocacy Principles: As part of its 2008 State Legislative Program, VTA will advocate for the following:*

- *During the deliberations on the FY 2009 state budget, support the full transfer of gasoline sales tax revenues from the General Fund to the Transportation Investment Fund (TIF) pursuant to Proposition 42. Furthermore, oppose the loaning or diversion of Proposition 42, Public Transportation Account and other transportation dollars to the General Fund.*
- *Oppose attempts to divert gasoline sales tax “spillover” revenues to non-public-transit purposes. In addition, support the efforts of the California Transit Association to develop a consensus on a constitutional amendment to permanently protect the “spillover.”*
- *Ensure that all previous loans from the various state transportation accounts to help with prior-year General Fund deficits are repaid in full and as expeditiously as possible, using General Fund and tribal gaming revenues as originally specified in state law. Oppose attempts to repay these loans with Public Transportation Account or other transportation dollars.*
- *Support appropriating the highest possible level of funding for STA as part of the FY 2009 state budget.*
- *Support the historic practice of funding debt service on transportation-related bonds from the General Fund. Oppose efforts to fund this obligation using revenue sources dedicated to transportation.*
- *Work with the CTC to develop a strategy for allocating the remaining balance of TCRP funding for Santa Clara County projects.*

## **FUTURE TRANSPORTATION INVESTMENTS**

California is suffering from an overall under-investment in transportation infrastructure. The gas tax, the historic foundation of transportation funding, has substantially eroded in

value. California last approved a gas tax increase in June 1990 under Proposition 111, which raised the rate up to the current level of 18 cents a gallon. However, statistics indicate that the state's gas tax rate has not kept pace with the growth in population, licensed drivers, registered vehicles, and vehicle miles traveled. At the same time, automobile fuel economy has more than doubled, resulting in drivers using less gas and paying less gas taxes for each mile they drive. Furthermore, while the cost of constructing transportation projects increases each year, the gas tax stays constant. The result is an erosion of purchasing power. In fact, since the last increase in the early 1990s, California's gas tax has lost nearly 25 percent of its value.

In May 1999, the CTC published a report suggesting that the magnitude of California's unfunded transportation needs over 10 years was close to \$120 billion. Although the CTC has not done a comprehensive update of this 1999 assessment, the commission recently reported that the number has actually grown to roughly \$200 billion since that time.

*Advocacy Principles: VTA supports legislative proposals and policies that ensure that adequate levels of funding are available for operating, maintaining, rehabilitating, and improving California's transportation infrastructure, including state highways, public transit, local streets and roads, bicycle and pedestrian facilities, transportation corridor management strategies, and intelligent transportation systems. In 2008, VTA's advocacy efforts in this regard will emphasize the following:*

- *Support legislation that would require the state gas and diesel fuel tax rates to be adjusted annually for inflation.*
- *Support legislation that would provide local transportation entities, such as VTA, with the statutory authority to impose a vehicle registration surcharge to fund traffic congestion management programs and other identified local transportation needs.*
- *Support efforts to place a constitutional amendment before the voters of California to allow them to decide whether the two-thirds voting requirement for local transportation sales tax measures should be lowered.*
- *Support legislation that would provide general authorization in state law for local transportation entities to develop and implement high-occupancy toll (HOT) lanes.*
- *Support additional funding for paratransit operations, and for public transportation services for seniors and others with special transportation needs.*
- *Support increasing the state's financial commitment to bicycle and pedestrian safety and improvement projects.*

## PROJECT DELIVERY

Project delivery continues to be a major concern. Oftentimes, transportation projects can take a considerable amount of time to complete. Project sponsors must maneuver through a multi-stage development and review process that includes design and engineering, right-of-way acquisition, environmental impact review and mitigation, financing, construction, and other related requirements at various levels of government. As a result, delays are common. Therefore, it is important to explore different and innovative ways to expedite the delivery of transportation projects.

*Advocacy Principles:* In general, VTA supports legislative proposals and policies that enhance the ability of local project sponsors and Caltrans to effectively manage and expedite project delivery. In 2008, VTA's efforts in this regard will emphasize the following:

- *Support legislation that would allow project sponsors to utilize design-build contracting, construction management at risk and other innovative contracting methods for delivering state highway and other types of transportation projects.*
- *Support legislation that would allow local transportation entities to engage in public-private partnerships to deliver transportation projects.*
- *Support providing more flexibility in terms of allowing local transportation organizations to be designated as the lead agency for the preparation of environmental impact reports for state highway projects.*
- *Support the continued use of Grant Anticipation Revenue Vehicle (GARVEE) bonds and AB 3090 arrangements by the CTC for STIP projects that are programmed in the out years, but are ready to go now. In addition, push the CTC to encourage the use of pre-award authority for projects programmed in the current year of the STIP.*
- *Monitor legislative proposals regarding eminent domain to ensure that: (a) the authority for local transportation entities to use eminent domain for transportation projects is not jeopardized; and (b) any changes to eminent domain law do not adversely impact the delivery schedules and costs of transportation projects.*

## CALIFORNIA PUBLIC UTILITIES COMMISSION

The federal government has designated the responsibility for public rail transit safety to state governments. In California, these functions, including those related to at-grade light rail lines and rail crossing applications, rest with the California Public Utilities Commission (CPUC), a quasi-judicial regulatory agency, whereas in many other states around the country, these responsibilities are performed by the state Department of Transportation.

California public transit operators have long recognized the need for a rail safety oversight program. Such a program works best if it: (a) consists of a partnership between public transit operators and the rail safety oversight agency based on trust, a positive working relationship and an acknowledged resolve to bring issues to a mutually agreeable resolution; (b) relies on best practices and industry standards; and (c) results in decisions based on technical merit.

As VTA's experience with the Vasona Light Rail Extension Project illustrates, the CPUC's approval process for rail crossing applications needs to be streamlined. Furthermore, the CPUC should not become involved in planning, environmental, alignment, project development, and construction issues related to at-grade light rail systems. Not only is this inconsistent with the CPUC's expressed jurisdiction in law, which is limited to post-construction and operational safety oversight, but it also causes increased costs and significant schedule delays for light rail projects.

*Advocacy Principles:* VTA will work with the California Transit Association and other rail transit operators in the state to streamline the CPUC's public rail transit safety oversight programs, in particular its process for approving rail crossing applications. Furthermore, VTA will oppose actions on the part of the CPUC that are inconsistent with its expressed jurisdiction in law and the court ruling involving the Vasona Project.

## **STATE TRANSPORTATION IMPROVEMENT PROGRAM**

SB 45 (Kopp), which was enacted into law in 1997, brought about various changes to the process for programming transportation dollars through the STIP. In general, this legislation simplified the programming process by consolidating numerous transportation funding pots into two broad categories: (a) the Regional Transportation Improvement Program (RTIP); and (b) the Interregional Transportation Improvement Program (ITIP).

SB 45 also devolved a significant amount of programming responsibility away from the state to the regional transportation planning agencies (RTPAs), such as the Metropolitan Transportation Commission (MTC) in the Bay Area. Under the provisions of the bill, the RTPAs have programming responsibility for 75 percent of available STIP dollars through their RTIPs.

Meanwhile, the ITIP, which consists of the remaining 25 percent of available STIP dollars, funds: (a) projects that facilitate the interregional movement of people and goods; (b) projects that are considered to be of statewide significance; (c) projects on the interregional roadway system that are outside the boundaries of urban areas; and (d) intercity rail capital improvements. These projects are nominated by Caltrans and programmed by the CTC.

There are some who contend that the amount of STIP funds available for programming by the state is insufficient. They argue that some of the programming responsibility that was granted to the RTPAs under SB 45 should be given back to the state. Also, various transportation interests have sought the passage of legislation that would take funds "off

the top” of the STIP for certain categories of projects, rather than have these projects compete for funding through the RTIP process. Such proposals are inconsistent with SB 45, which emphasizes that local and regional officials are in a better position than the state to determine the transportation projects that best meet their unique mobility needs.

*Advocacy Principles: In general, VTA opposes legislative proposals and policies that would take away any amount of STIP programming responsibility from the regions, or that are inconsistent with the principles and intent of SB 45. In addition, VTA will work with other transportation stakeholders on the following reforms to the STIP process:*

- *Participate in the efforts of the California Transit Association to develop a consensus on legislation to restructure the allocation of Public Transportation Account STIP dollars.*
- *Explore possible legislation to eliminate the four-year county share period, thereby allowing county shares and programming capacity to be calculated based on the five-year STIP Fund Estimate.*

## **HIGH-SPEED RAIL**

In 1996, the California High-Speed Rail Authority was created to plan, design, construct, and operate a high-speed train system connecting California’s major metropolitan areas. According to the authority’s adopted business plan, the intent is to run the first leg of this system between Anaheim/Los Angeles and San Francisco through San Jose. Ultimately, the line would be extended to Oakland, Sacramento and San Diego.

With initial planning work having been completed, the High-Speed Rail Authority is moving forward with: (a) preparing a project financial plan; (b) outlining project management activities; (c) identifying critical right-of-way acquisitions; and (d) initiating detailed project design and related environmental studies.

VTA has historically supported the concept of building and operating a high-speed rail line to provide a competitive, long-distance travel option between Northern and Southern California as a way to relieve air traffic and highway congestion. In fact, several years ago, VTA partnered with four other organizations to establish the Silicon Valley High-Speed Rail Coalition to advocate not only for high-speed rail in general, but also for a Pacheco Pass alignment into the Bay Area.

*Advocacy Principles: As part of its 2008 State Legislative Program, VTA will continue to participate in the Silicon Valley High-Speed Rail Coalition to:*

- *Support full funding for the activities of the California High-Speed Rail Authority in the FY 2009 state budget.*
- *Support moving forward with the high-speed rail bond ballot measure in November 2008.*

- *Support a Pacheco Pass alignment into the Bay Area for high-speed rail that does not negatively impact Henry Coe State Park and that provides for appropriate measures to mitigate any impacts to Central Valley wetlands in Merced County.*

## **TRANSIT-ORIENTED DEVELOPMENT**

Transportation and land use are inextricably connected. Land use determines commute patterns by influencing mode choices, travel routes and trip distances. At the same time, the transportation system shapes land-use patterns, as development tends to occur along major transportation corridors.

To maximize mobility, land-use planning should encourage alternatives to the automobile. Policies that promote the clustering of high-density housing and mixed-use developments at existing or planned transit hubs result in more effective utilization of the transportation system. Specifically, they help reduce sprawl and encourage more efficient use of public transit services.

*Advocacy Principles: VTA supports legislative proposals and policies that encourage transit-oriented development and other smart growth initiatives that enhance the effectiveness of public transit and other alternative modes of transportation.*

## **TRANSPORTATION AND THE ENVIRONMENT**

Transportation is an environmental issue. How the transportation system is planned and developed can have either positive or negative environmental consequences. Improving air and water quality, protecting wildlife habitats, preserving open and green spaces, sensibly managing energy and resource consumption, and preventing sprawl are among the environmental objectives that directly impact the quality of life of California's communities. Creating a more balanced transportation system is central to preserving the environment as a whole.

In 2006, Gov. Schwarzenegger signed into law AB 32 (Nunez), the Global Warming Solutions Act, which made California the first state in the nation to attempt to cap its greenhouse gas emissions. This legislation sets the ambitious goal of cutting greenhouse gas emissions throughout the state to 1990 levels by 2020. This translates into an estimated 25 percent reduction, or 174 million metric tons per year. To achieve this goal, AB 32 empowers the California Air Resources Board (CARB) to adopt rules and regulations to "achieve the maximum technologically feasible and cost-effective greenhouse gas emissions from sources or categories of sources" according to a series of benchmarks and timetables specified in the legislation. In addition to CARB's activities, it is expected that the Legislature will consider bills in 2008 that would further define how AB 32 gets implemented.

*Advocacy Principles:* In general, VTA supports legislative proposals and policies that seek to preserve the environment through better transportation planning. In 2008, VTA's efforts in this regard will emphasize the following:

- *Ensure that any legislation to implement AB 32 be structured in a way that assists the Bay Area Region in achieving its own greenhouse gas emissions goals, as well as its mobility goals. Along these lines, support a multi-pronged approach that includes carbon credits, a cap-and-trade mechanism, and vehicle fuel efficiency standard improvements.*
- *Monitor the implementation of CARB's Urban Transit Bus Fleet Rule to ensure that these efforts are consistent with VTA's environmental policies and clean-fuels strategies, and do not impose any unnecessary financial and administrative burdens on public transit operators.*

## **SPONSORED BILLS**

*Advocacy Principles:* As part of its 2008 State Legislative Program, VTA will seek to sponsor or co-sponsor the following measures:

- *Making a technical correction to VTA's enabling statutes to ensure that VTA has the appropriate statutory authority to work with local jurisdictions on developing funding strategies to address their local street and road maintenance and rehabilitation needs.*
- *Amending VTA's enabling statutes to raise the dollar threshold for when VTA must use the formal competitive bidding process to procure materials, supplies and equipment from \$25,000 to \$100,000 consistent with federal regulations.*
- *Partnering with other interested parties on legislation to allow public agencies to generate excess renewable energy at one location and receive a credit on their electric bills at other locations in order to enable VTA to implement key elements of its Sustainability Program.*
- *Partnering with the California Transit Association on either a regulatory change or legislation to exempt public transit operators from having to fill out manual duty logs.*