

## MEMORANDUM

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

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

**DATE:** November 16, 2009

**SUBJECT:** Weekly Legislative Update: Week of November 9, 2009

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### **FEDERAL**

***Health Care:*** The battle over health care shifted back to the Senate as President Barack Obama prodded lawmakers to push ahead after the House narrowly approved the most sweeping bill of its kind in four decades. The President hailed the House for passing a measure that would extend coverage to 36 million more Americans at a cost of \$1.2 trillion over the first 10 years, but he acknowledged the difficult path that lies ahead as the Senate struggles to finish its own version of the legislation by the end of the year.

With less than seven weeks left on its calendar, the Senate timeline to start debate is uncertain. Even if the chamber passes a bill, lawmakers will have to work out the differences with the House proposal. Senate Majority Leader Harry Reid (D-NV) commented that the House vote provided momentum, but there was no indication that moderate lawmakers whose votes are needed to pass a bill in the Senate had warmed to controversial measures such as a proposed government-run insurance plan.

After weeks of negotiations and some last-minute lobbying by President Obama, the House voted 220-215 to approve the most far-reaching health care reform bill that Congress has considered since the creation of Medicare in 1965. House Speaker Nancy Pelosi (D-CA) succeeded only after allowing an amendment that would prohibit insurers from selling policies that cover abortion to anyone who receives a federal subsidy. Conservatives from both parties joined forces to push the amendment.

In general, the House-passed measure requires nearly every American to buy a health insurance policy and provides federal subsidies for those who otherwise could not afford it. Under the provisions of the legislation, large companies would have to offer coverage to their employees. Both consumers and companies would be slapped with penalties if they refuse to comply with the mandates.

To pay for the expansion of coverage, the House bill cuts Medicare's projected spending by more than \$400 billion over a 10-year period. It also imposes a tax surcharge of 5.4 percent on income over \$500,000 in the case of individuals and \$1 million for families.

Under the House legislation, insurance industry practices such as denying coverage because of medical conditions would be banned, and insurers would no longer be able to charge higher premiums on the basis of gender or medical history. The industry would also lose its exemption from federal antitrust restrictions on price fixing and market allocation.

At its core, the House measure creates a federally regulated marketplace where consumers could shop for coverage. Under the bill's most controversial provision, the government would sell insurance, although the Congressional Budget Office (CBO) forecasts that its premiums would be more expensive than those for policies sold by private companies.

**Economy:** President Obama signed into law a \$24 billion economic stimulus bill that provides tax incentives to prospective homebuyers and extends unemployment benefits to the longtime jobless who have been left behind as the U.S. economy veers toward recovery. The bill-signing came a day after the House voted 403-12 for the measure. The Senate approved it unanimously two days prior to the House. The White House said the new law, which also includes tax cuts for struggling businesses, builds on provisions in the \$787 billion stimulus package that was enacted last February. Citing a recent federal government report indicating that the nation's jobless rate had hit 10.2 percent in October, the highest since 1983, the President said, "The sobering number underscores the economic challenges that lie ahead." He pledged to do more work to address unemployment.

The new law provides another 14 weeks of benefits to the estimated 2 million out-of-work individuals who have exhausted their benefits or will do so by the end of the year. Those in states where the jobless rate is 8.5 percent or above would get an additional six weeks. The extra 20 weeks pushes the maximum that a person in a high unemployment state could receive to 99 weeks, the most in history.

The tax credits, added by the Senate, center on extending the popular \$8,000 credit for first-time homebuyers that was included in February's economic stimulus package. This credit, which was set to expire at the end of this month, would be available through next June, as long as the buyer signs a binding contract by the end of April. In addition, the legislation expands the program to include a \$6,500 credit for existing homeowners who purchase a new place after living in their current residence for at least five years. The measure doubles the income ceiling for eligible individuals to \$125,000. Homes must cost less than \$800,000 to qualify. Prolonging the life of the homebuyer credit has been a priority of the real estate industry, which contends that the credit has been instrumental in helping to turn around a market that was a major cause of the economic downturn. About 1.4 million first-time homebuyers have qualified for the credit through August, and the National Association of Realtors estimates that 350,000 of them would not have been able to buy their homes without the credit. The other tax credit allows businesses that have lost money in 2008 or 2009 to get refunds on taxes paid on profits during the five previous years.

**Distracted Driving:** The U.S. Department of Transportation (DOT) and the Federal Communications Commission (FCC) are launching a joint effort to evaluate technologies that may help curb the epidemic of distracted driving. The partnership will also include outreach efforts to educate the public about the dangers of texting and talking on cell phones while driving, as well as other distracting behavior that can lead to serious vehicular accidents.

Speaking before the House Subcommittee on Commerce, Trade and Consumer Protection, Transportation Secretary Ray LaHood said, “We must put an end to distracted driving, which is costing lives and inflicting injuries across the nation’s roads and railways.” He informed the subcommittee that his department will be initiating the following three rulemakings:

1. Restricting the use of cell phones and other electronic devices in rail operations.
2. Banning text messaging and restricting the use of cell phones by truckers and interstate bus operators while behind the wheel.
3. Disqualifying school bus drivers convicted of texting while driving from maintaining their commercial driver’s licenses.

FCC Chairman Julius Genachowski told the panel that there are new technologies that could be used to generate an immediate impact on distracted driving. As an example, he pointed to smart phones and other technologies that would “allow users to control their mobile phones and vehicle systems using their voices to avoid the dangerous distraction of looking at device screens.”

Officials from DOT and the FCC plan to establish a working group to evaluate technology-based solutions to the problem of distracted driving, and to coordinate consumer outreach and education.

**Rail Safety:** Passenger and freight rail operators are pressing the White House to scale back proposed rules that would mandate billions in new safety hardware to prevent collisions, warning that the financial burden could lead to cuts in passenger train service instead of the expansion that President Obama wants. The rules, which the Federal Railroad Administration (FRA) plans to put in final form in the coming weeks, would require freight railroads, Amtrak and commuter rail operators to install positive train control systems by December 2015. The goal is to prevent collisions such as the one that occurred last year between a Metrolink commuter train and a Union Pacific freight train near Los Angeles. That accident killed 25 people and spurred federal legislation mandating new technology that could automatically prevent trains from barreling through stop signals.

Amtrak told the FRA that the cost of installing collision-avoidance systems in at least 12 states “may be so high as to not be undertaken and, therefore, result in the elimination of Amtrak service.” Meanwhile, the American Public Transportation Association (APTA) said it would cost more than \$2 billion for commuter rail agencies to comply with the rules, resulting in “increased fares, decreased service levels and deferral of state-of-good-repair projects.”

As currently written, the FRA’s rules would compel railroads to install collision-avoidance technology along any tracks used for passenger service or shipments of certain hazardous materials. Rail officials are concerned not only about the potential cost of installing the

hardware and software, but also about the expense of maintaining and testing the systems. Estimates of the total cost of the new rail safety rules vary widely. The FRA says the 20-year cost could range from \$7 billion to \$24 billion. Passenger rail officials have signaled that they may ask Congress for subsidies to offset the cost.

## **STATE**

***State Debt:*** Days after lawmakers agreed to ask California voters for \$11.1 billion in debt for water projects, the state had to pay more than expected to sell its most recent bond issue. Brokers underwriting the sale of \$1.9 billion in state general obligation bonds originally thought investors would demand a 3 percent yield. Instead, the state was forced to offer a 4 percent annualized tax-free yield to lure investors. That pushed the state's cost of borrowing at least a third higher than originally projected. As a result, millions of dollars more of the state's depleted General Fund will have to go for debt service, meaning less money for schools, health care, social services, prisons, and other budget priorities.

Myriad factors influence individual bond sales. But some Sacramento insiders believe the higher cost of the state's latest sale was related to the saturation of the market by California. Over the last seven weeks, California has sold more than \$21 billion in debt.

Currently, the state has more than \$130 billion of outstanding bond debt. A little more than half, \$66.4 billion, has been sold to investors. The state will pay \$5.75 billion to service that debt this fiscal year, or 6.7 percent of General Fund revenues. The Treasurer's Office projects that those debt payments could more than double, growing to \$13.54 billion by 2018, or more than 10 percent of General Fund revenues. By comparison, debt service consumed less than 2 percent of the General Fund in the 1980s, and then drifted to 5.5 percent by the mid-1990s.

According to the Legislative Analyst's Office, debt service has become "one of the fastest growing items in the state's strained General Fund budget." The state's growing debt load and its inability to cut spending or raise taxes have been cited as reasons why California has the lowest credit rating of all of the 50 states. If approved by the voters, the \$11.1 billion water bond would add to that burden, resulting in some potentially difficult choices. If voters see water borrowing as a necessary investment, lawmakers may have to consider rationing future state bond sales. Borrowing for some purposes—possibly for high-speed rail or Proposition 1B transportation projects—might have to be held back in favor of bond sales for other priorities, such as education.

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