



Government Relations & Public Affairs Committee

September 24, 2009

Federal Advocacy Update

Issue: Update on fiscal year 2010 appropriations, surface transportation authorization, and climate change legislation; discussion of advocacy principles for 2010.

Recommendation: None; this will be an informational report and discussion.

Discussion: SACOG's federal advocate, Mike Miller, prepared the attached memo with updates on the issues mentioned in brief below. Additional updates will be reported at the committee meeting.

FY 2010 Transportation Appropriations

The 2010 transportation appropriations bill has been passed, but the conference committee is unlikely to reconcile the differences before the fiscal year begins on October 1. If this occurs, Congress would pass a continuing resolution to continue current funding levels for a few months. The Senate version included \$40 million for South Line Light Rail Extension, but did not include funding for SACOG's Sacramento Intermodal Station rail relocation request for \$750,000, which was in the House version. Besides the uncertainty of these specific rail relocation funds passing the conference committee, staff has learned that the Administration would like to eliminate the entire Rail Line Relocation program, which has provided \$1.3 million to date for the Sacramento Intermodal project. At this time, Congress has included funding for the program for fiscal year 2010, but other funding sources may need to be identified in the future.

Surface Transportation Authorization

Current federal transportation law expires on September 30. Congress is working on a bill to extend it for 18 months and add approximately \$20 billion to the Highway Trust Fund. The House and Senate disagree about how to proceed with authorization, particularly how long the current bill should be extended. Staff recently learned from the Sacramento Metropolitan Air Quality Management District that the House draft version threatens funding for diesel engine replacement or retrofit programs such as the SECAT program through a modification in eligibility for the Congestion Mitigation and Air Quality Program. Staff will continue to follow this and other policy issues that emerge in the coming months.

Climate Change Legislation

The House passed H.R. 2454 in July, but the Senate has yet to introduce legislation, although several versions are anticipated. Additional information is explained in the attached memo.

Advocacy Principles for 2010

Given that work on the transportation authorization bill is now shifting to 2010, most of SACOG's advocacy principles for 2009 (attached) could remain current. Staff seeks input from committee on adding continued eligibility for current CMAQ uses in the SACOG region, and evacuation planning and funding to the current principle on transportation authorization; expanding the flood management principle to specifically cover water resources; supporting legislation that would close a loophole that would force Sacramento Regional Transit, and other transit operators that entered into long-term lease agreements, to make a lump-sum payment; and look for regulatory and funding opportunities to support rural transportation and agricultural sustainability. Staff will bring more information on this issue in November. Staff is interested in feedback from the committee and plans to bring a revised set of principles back in November.

Approved by:

Mike McKeever
Executive Director

MM:RS:EJ:sb

Attachments

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Attachment A

Date: September 21, 2009
To: Sacramento Area Council of Governments
From: Mike Miller
Re: Transportation & Climate Legislation – Update

This memorandum outlines the status of key federal transportation and climate legislation moving through Congress.

FY 2010 Transportation Appropriations

As reported in our most recent update, the House of Representatives passed HR 3288, the FY 2010 Transportation Appropriations bill, in late July. The bill includes over \$76 billion for transportation programs

The Senate passed its version of HR 3288 on September 17. The Senate version also includes approximately \$77 billion for transportation programs and projects. In the Sacramento region, Senator Feinstein included \$40,000,000 for South Sacramento Light Rail Extension. The Administration supports the Senate version of HR 3288. The Statement of Administration Policy (SAP) regarding HR 3288 is attached as Exhibit A. The SAP provides an interesting outline of the Administration's transportation priorities. Unfortunately, the SAP also specifically targets for elimination the Rail Line Relocation program; this is the program targeted for the SACOG's rail relocation request. We previously reported that the Administration had provided no funding for the program in its FY10 budget request. There is no indication that Congress agrees with the Administration's assessment of the program. We are in touch with the congressional delegation on this point.

The federal Fiscal Year 2010 begins on October 1 and Congress is unlikely to complete work on the Transportation Appropriations legislation prior to that date. Anticipating this for DOT and most appropriations legislation, Congress is likely to pass a continuing resolution this week providing funding for all federal agencies on a temporary basis at FY09 levels. Congress has over the past several years passed similar temporary funding legislation. The Transportation bill is in good position for relatively early passage – only Transportation and three of the twelve annual appropriations bills have been passed by both chambers and are ready for Conference Committee action.

Transportation Authorization & Highway Trust Fund

Current transportation law – SAFETEA-LU¹ – expires on September 30, 2009. Congress must either pass new transportation authorization legislation or extend existing law prior to the expiration date or federal transportation funding and agency activity will be suspended. In addition, the Highway Trust Fund (HTF) is likely to become insolvent and requires an infusion of funding almost immediately.

Pending Senate legislation extends SAFETEA-LU for 18 months² while simultaneously injecting approximately \$20 billion into the HTF sourced from the US Treasury's general fund. Senate passage is likely and the Administration supports an 18 month extension. The Senate extension bill is unlikely to include earmarks for High Priority Projects and other programs normally earmarked by Congress, but instead would provide lump sums to states for allocation.³

The matter is not quite as clear in the House of Representatives. Transportation & Infrastructure Committee Chairman James Oberstar has indicated support for a three month extension but is opposed to the Senate's 18 month proposal. TFG will keep you posted regarding SAFETEA-LU and HTF legislation developments.

Climate Legislation.

Senate update. There is neither Senate legislation introduced nor draft legislation available as of this date. Primary jurisdiction over greenhouse gas (GHG) cap-and-trade legislation in the Senate lies primarily with the Senate Committee on Environment and Public Works, chaired by Sen. Barbara Boxer. Other Committees have a claim to jurisdiction over aspects of the bill including the Committee on Energy & Natural Resources, the Committee on Agriculture, Nutrition and Forestry, the Committee on Finance, the Committee on Foreign Relations, and the Committee on Commerce, Science and Transportation. The following points outline important procedural items.

- The Energy Committee has reached bipartisan agreement on a number of different pieces of energy legislation which have been collected into one comprehensive energy bill called the "American Clean Energy Leadership Act" (ACELA). ACELA establishes a renewable energy / energy efficiency portfolio standard, commercial and residential building codes, incentives for building efficiency retrofits, and other energy provisions. There is no treatment of transportation in that legislation.
- Senator John Kerry, Chairman of the Senate Foreign Relations Committee, is expected to be a lead sponsor of the Senate climate legislation.

¹ Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users

² The legislation would extend existing law through March 31, 2011.

³ Lump sums would be determined based upon FY09 earmark levels.

- It is unclear whether the other committees with potential jurisdiction will chose to become involved in the legislation. Senator Harry Reid directed all committees to complete consideration of climate legislation by September 18, but that deadline has slipped and the directive has been generally ignored as other matters have taken the Senate's time.
- Chairman. Boxer has set deadlines for introduction of her legislation in September, all of which have slipped. The expectation now is that Chairman Boxer and Chairman Kerry will introduce legislation in late September for markup in their Committees in October.
- On September 16, Senate Majority Leader Harry Reid conveyed to the press that the Senate would consider climate legislation "as quickly as we can," but his comments have been interpreted to mean that the legislation may not be considered this calendar year, as the Senate strives to complete health care and financial services regulation. TFG has received numerous indications from Senate offices that climate legislation will not make it to the Senate floor this year and, therefore, not before December's international negotiations on climate change in Copenhagen.

Key issues. The following points outline key issues of interest to SACOG.

- The Senate Environment Committee is expected to likely include the "CLEAN-TEA" legislation, S. 575 within the climate bill, as six (6) of the majority members of that Committee are the primary co-sponsors of S. 575.
- Climate Communities has conveyed a letter to Chairman Boxer and met with Committee staff seeking national climate legislation that provides localities with the resources to be able to conduct GHG emissions reduction activities through transit, smart growth, green buildings and efficiency, community-scale renewable and other local approaches. This includes a call for the inclusion of CLEAN-TEA as part of the climate bill, and the devotion of 10% of carbon market value to these clean transportation approaches. A copy of the letter is available at http://www.climatecommunities.us/documents/boxer_letter.pdf.
- TFG has been working in coordination with the T4America campaign and its leaders Smart Growth America and Reconnecting America. One interesting note is that these organizations are now undertaking a strategy to promote clean transportation and livability in rural area, as there is a realization that the 60-vote climb in the Senate will be difficult to achieve without rural-state votes.

Exhibit A: Statement of Administration Policy (edited) – HR 3288

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
July 22, 2009**

STATEMENT OF ADMINISTRATION POLICY

**H.R. 3288 — Transportation, Housing and Urban Development, and Related Agencies
Appropriations Act, 2010**

The Administration strongly supports House passage of H.R. 3288, making appropriations for Transportation, Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010.

The President believes that America's economic success in the 21st Century depends significantly on a modernized infrastructure, from roads and highways to high-speed rail, inland waterways, and housing. These infrastructure investments will help build a new foundation for long-term economic growth to benefit the American people for years to come...

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Administration Priorities

National Infrastructure Bank and High Speed Rail. The Administration appreciates the support for up to \$2 billion for a National Infrastructure Bank, an important Administration priority, and looks forward to working with the Congress to authorize the Bank as soon as possible. Once established, the Bank will play a key role in supporting regionally and nationally significant, high-value, multi-modal projects selected on the basis of merit. The Administration also thanks the Committee for capital grants for high-speed and intercity passenger rail corridor expansion...

Efficiencies and Cost-Saving Proposals. The Administration urges the Congress to support the President's initiatives to terminate or reduce programs that have outlived their usefulness, fund narrowly focused activities, or duplicate existing programs, including the Rail Line Relocation Program (emphasis added) for which funds are not distributed through a need- or merit-based process and an alternative program achieves the same goal.

Department of Transportation (DOT)

The Administration is pleased that the Committee supports the President's request for DOT. The Administration appreciates the provision of capital funding for the Washington Metropolitan Area Transit Authority (WMATA), which will help WMATA to address safety shortfalls within its rail system. The Administration also appreciates the Committee's support for the funding provided to the Federal Aviation Administration's Next Generation Air Transportation System...



2009 Federal Advocacy Principles

Economic Recovery Funding – Seek to ensure the Sacramento region is competitive and receives its fair share of funding for any one-time infrastructure funding. The federal economic recovery bill proposed by President Obama will most likely rely on a combination of additional funding for existing formula-based programs distributed among states, regions and local jurisdictions. Advocate for increased flexibility for funding for transit operations and capital investments.

Transportation Authorization – Seek to influence authorization of the next surface transportation bill. The current bill—*Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users*—expires September 30, 2009. Advocate for statewide California Consensus Principles adopted by the SACOG Board in 2008. Advocate for inclusion of projects from the MTP2035 hard-to-fund, large-scale projects, such as the Intermodal Station Relocation, South Line Light Rail Extension, Downtown Natomas Airport Light Rail Extension, and river crossings at the American River near Truxel and Sacramento River near Broadway. Encourage bill to include incentives for linking transportation and land use planning, support for regional planning tools for modeling and data gathering, and ongoing public education and engagement related to travel behavior.

Complete Streets – Seek to influence legislation that supports planning and funding streets designed to accommodate cars, transit, bicyclists and pedestrians including education, encouragement and infrastructure for Safe Routes to Schools.

Blueprint Implementation – Seek funding for SACOG to implement the Blueprint preferred growth scenario and continue technical assistance for cities and counties. Seek to influence legislation or administrative rules that would provide flexible funding for smart growth planning. Continue education and advocacy efforts with Metropolitan Mobility Caucus and key members of the House and Senate regarding Senate Bill 375, ongoing efforts linking transportation and land use planning, the unique impact CEQA has on planning in California, and the relationship between NEPA and CEQA.

Discretionary Transit Funding – Continue to seek discretionary funding for light rail projects including Downtown-Natomas-Airport extension, South Line Phase II extension, Northeast and Folsom double tracking, and passenger railcar rehabilitation. Continue to pursue funding for bus replacements and bus facilities. Also seek funding for enhanced passenger rail service on Capital Corridor serving as regional rail service to major employment centers.

Climate Change/Air Quality – Seek to influence legislation or administrative rules addressing climate change, especially those dealing with transportation, land use and air quality. Encourage reduction measures that support Blueprint and Metropolitan Transportation Plan objectives, and criteria that favor land uses and transportation projects in the region, given the region's leadership on addressing greenhouse gas emissions in the MTP2035. Work with federal delegation to continue education efforts related to California's Global Warming Act (AB 32). Support California's waiver request to U.S. EPA to regulate tailpipe greenhouse gas emissions, as authorized by AB 1493 of 2002, which would support implementation of AB 32 of 2006.

Natural Resources – Continue to seek funding from the Army Corps of Engineers for natural resources data development and planning to support habitat conservation plans in the region.

Flood Management – Seek to influence legislation or administrative rules addressing flood protection, working with flood protection agencies to ensure that public safety is improved and additional funding for local flood protection efforts is secured. Advocate for FEMA remapping to be consistent with the region's Blueprint preferred growth scenario.