



Item #12-8-10 Information

Transportation Committee

July 26, 2012

Moving Ahead for Progress in the 21st Century Overview

Issue: Overview of new federal surface transportation law, *Moving Ahead for Progress in the 21st Century* (MAP-21).

Recommendation: None; this item is informational.

Discussion: On July 6, President Obama signed MAP-21, which provides \$105 billion for state and local roads as well as public transportation. At this point, staff has only preliminary information from its own analysis and communication with other regions and transportation stakeholders. Attachment A provides an overview of funding and policies in MAP-21 of interest to SACOG and its members and partner agencies.

We still do not have all of the information on the impacts of MAP-21. The U.S. Department of Transportation (USDOT) is tasked with rulemaking on many of the details of new policies and programs in the law. USDOT has also only released estimated funding levels, so there may be variation between the numbers reported in Attachment A and the funding appropriated by Congress in the Fiscal Year 2013 bill that is still pending.

Caltrans and the Legislature may also be making decisions that will impact the implementation of MAP-21 in California. For example, MAP-21 changes the share of Surface Transportation Program funding that goes to regions from 62.5 percent to 50 percent. Staff is communicating with other transportation stakeholders about potential changes to the program to either retain the historical funding split between the state and regions or to increase devolution of funding decisions to regions.

Approved by:

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Attachment

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Preliminary Analysis of MAP-21

Moving Ahead for Progress in the 21st Century¹

Overview

On July 6, President Obama signed MAP-21, which provides \$105 billion for state and local roads as well as public transportation. MAP-21 differs from past surface transportation bills in several key ways:

- limited to 24 months (October 2012 through September 2014);
- overall funding stays about the same (except for a small inflation adjustment);
- no earmarks (whereas the last law included 5,600);
- 90 programs consolidated into about 30;
- extensive changes to project review intended to accelerate project delivery; and
- a new performance focus that will link individual projects back to national priorities.

This document provides an overview of funding and policies in MAP-21 of interest to SACOG and its members and partner agencies. It is divided into five main sections: Highways and Roads (including all non-transit funding and policies), Public Transit, Environmental Streamlining, Other Provisions, and Next Steps.

Funding information provided is for national level estimates for FY 2013, unless otherwise stated. Where possible, estimates for funding in the SACOG region are provided, but exact funding levels will vary based on state and federal actions.

Highways & Roads

MAP-21 eliminates all formula factors for individual highway programs (in federal terms, highway programs include funding for interstates, state highways, and local roads). MAP-21 distributes highway formula funds to states based on each state's share of total highway funds distributed in fiscal year 2012 (formula funds as well as discretionary grants or earmarks).

MAP-21 also eliminates the Equity Bonus program, which was designed to ensure that each state receives a minimum return of highway funds based on its share of gas tax payments into the Highway Trust Fund. MAP-21 guarantees at least 95 percent return, which is largely irrelevant due to the use of non-Highway Trust Fund sources being used.

The following two charts provide an overview of the funding levels, eligible uses, and changes from the last surface transportation law, SAFETEA-LU.

Major Highway Programs

National Highway Performance	Surface Transportation	Highway Safety Improvement	Congestion Mitigation and Air Quality
<ul style="list-style-type: none"> •\$22.25 billion •Funds projects for condition & performance of highways as well as expansion •Consolidates Interstate Maintenance and National Highway System programs •Funds bridges on National Highway System 	<ul style="list-style-type: none"> •\$10.2 billion •Funds state and local government public roads (highway construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, and operational improvements) •Suballocated to states and regions based on population (regional share goes from 62.5 percent to 50 percent) •Federal-aid system bridges are eligible •15 percent set-aside for bridges off the Federal-aid system •Safe Routes to Schools and recreational trails projects are eligible (though intended to be funded by Transportation Alternatives) 	<ul style="list-style-type: none"> •\$2.44 billion •Funds projects to improve safety •\$225 million dedicated to highway-railway grade crossings •Eliminates set-aside for high-risk rural roads, though they remain eligible •States required to develop data-driven safety plans for reducing fatalities and serious injuries 	<ul style="list-style-type: none"> •\$2.26 billion •Funds distributed based on 2009 levels (instead of need) •Requires PM_{2.5} nonattainment regions to prioritize projects that reduce PM_{2.5} and requires states to set aside funds •Requires regional plans for meeting targets •Expands eligibility to turn lanes, 511, incident and emergency response, EV charging and CNG stations •Allows regions to fund a group of projects if they collectively reduce emissions

Other Highway Programs

Transportation Alternatives	Transportation Infrastructure Finance & Innovation Act	Federal Lands & Tribal Transportation	Projects of National & Regional Significance
<ul style="list-style-type: none"> • 2 percent of Highway funding (approx. \$809 million) • Suballocated to states (large MPOs control 50 percent) • Replaces Transportation Enhancements • Consolidates Safe Route to School, Recreational Trails programs • Funds plan, design and construction of boulevards, main streets and other roadways • Funds environmental mitigation 	<ul style="list-style-type: none"> • \$750 million (from \$120 million) (lending capacity of \$7.5 billion) • Can finance up to 49 percent of project (from 33 percent) • Allows projects to be grouped to meet minimum cost threshold (\$50 million, except ITS) • Criteria more favorable to transit agencies than under current law • 10 percent reserved for rural projects (\$25 million minimum; rural is defined as any area except a city of more than 250,000) 	<ul style="list-style-type: none"> • Replaces Federal Lands Highway Program • Three areas: <ul style="list-style-type: none"> • Federal Lands Transportation: funding to agencies: National Parks, Forest Service, Fish & Wildlife Service, Army Corps, Bureau of Land Management • Federal Lands Access: funding to states • Tribal Transportation 	<ul style="list-style-type: none"> • \$500 million • Funds high-cost surface transportation projects that provide significant national and regional economic benefits and increase global competitiveness • Similar in size to TIGER program, which was not continued • Not likely to be appropriated

Highway Policies

In addition to the policy changes for specific programs listed in the preceding charts, MAP-21 makes the following major policy changes affecting highways and roads.

Performance Measures

MAP-21 introduces new national performance priorities and requires USDOT to establish performance measures over the next two years that will be implemented in 2015. The national priorities are:

- Safety
- Infrastructure Condition (good state of repair)
- Congestion Reduction
- System Reliability
- Freight Movement and Economic Vitality
- Environmental Sustainability
- Reduced Project Delivery Delays (streamlining)

Metropolitan Planning

The policies governing metropolitan planning are largely unchanged. A few changes worth noting:

- Funding for metropolitan planning increases by approximately 5 percent (based on SAFETEA-LU average), but requirements also increase significantly. It is unclear how much funding SACOG will receive, as some new metropolitan areas will be funded by that increase.

- Starting in 2015, the MTP and TIP must use the forthcoming national and state measures and plans for being performance-driven and outcome-based.
 - MPOs establish targets no later than 180 days after, and in coordination with, state and transit agencies
 - MPOs integrate goals, objectives, performance measures and targets of state and transit agencies into MTP.
 - MTP will include a description of performance measures and targets, and a system performance report.
 - TIP will include projects consistent with MTP, reflecting investment priorities in the MTP, and making progress toward achieving targets.
 - TIP will include anticipated effect of the TIP toward achieving targets linking investments to targets
- Within 2 years, MPOs shall include representation by providers of public transportation.
- States must reimburse MPOs within 15 days after requests for reimbursements (currently 30 days)

National Freight Policy

MAP-21 does not provide dedicated funding for goods movement, but it does establish a national freight policy, which requires the designation of a primary freight network of up to 30,000 miles. It also requires the first national freight strategic plan, and encourages states to develop state freight plans. For projects identified in a state freight plan, the federal funding share would increase from 80 to 90 percent for non-Interstate projects, and from 90 to 95 percent for projects on the Interstate system.

Tolling

MAP-21 makes several changes to allow tolling on interstates. It makes it explicit that federal funds may be used to convert an HOV lane to a high-occupancy toll (HOT) lane, encourages public-private investment, and requires toll lanes to not significantly reduce traffic speed.

Public Transit

MAP-21 provides a limited increase for public transit programs, with maintaining the historic 20 percent share of overall federal surface transportation funding. Urbanized Area remains the largest formula program. The following chart provides an overview of the six major formula programs. Several programs have been combined. Two programs completely eliminated are Clean Fuels and Transit in the Parks.

Public Transit Formula Programs

Urbanized Area (5307, 5336)	Eldery & Disabled (5310)	Rural Area (5311)	Bus & Bus Facilities (5339)	State of Good Repair (5337)	High Density & Growing States (5340)
<ul style="list-style-type: none"> •\$4.4 billion •JARC program eliminated, but urban activities must be funded by this formula •Systems with fewer than 100 buses in peak service may use a portion for operations 	<ul style="list-style-type: none"> •Consolidates Elderly and Disabled and New Freedom programs 	<ul style="list-style-type: none"> •\$599.5 •JARC program eliminated, but rural activities must be funded by this formula 	<ul style="list-style-type: none"> •\$422 million •Converts competitive program to formula program •New program managed by designated recipients of FTA funds, such as SACOG 	<ul style="list-style-type: none"> •\$2.1 billion •Replaces Rail Modernization program •Funds fixed guideway systems that use and occupy a separate right-of-way exclusive to public transit use. •Eliminates tiered funding and earmarks •Focuses on system age, revenue miles, and route miles •\$61 million set-aside for bus systems operating primarily in HOVs 	<ul style="list-style-type: none"> •\$518.7 million

Other Public Transit Programs

Fixed Guideway Capital Investment Grants (New Starts/Small Starts)

- \$1.9 billion
- Broadened eligibility to core capacity projects, which must achieve at least a 10 percent increase in capacity along a corridor
- Streamlined project approval, expanded use of warrants for project rating, evaluation and approval
- BRT projects not operating in dedicated right of ways are eligible for small starts
- BRT projects operating primarily in dedicated right of way are eligible for new starts.

Transit-Oriented Development

- MAP-21 creates a \$10 million transit-oriented development planning pilot program.
- Funding for costs of comprehensive planning for new fixed guideway capital projects or core capacity improvement projects.

Public Transit Policies

Public Transportation Safety

- Requires public transportation agencies to establish comprehensive safety plans
- Provides FTA with a regulatory and enforcement role over transit safety (but retains the existing State Safety Oversight structure)
- Authorizes FTA to withhold funds from states that are not meeting established requirements

Asset Management

- Establishes new system for monitoring and managing public transit assets
- Requires transit agencies to establish and use an asset management system to develop capital asset inventories and condition assessments, and report on changes to their system condition

Buy America Provision

Requires FTA to issue an annual report to Congress on any granted transit waivers of Buy America
Removes anti-segmentation language as included in the Senate-passed bill

Veterans Preference

Includes veterans' preference language for transit construction projects

Transit Privatization

Includes several privatization provisions:

- “better coordinate public and private sector-provided public transportation services” and “promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects
- provide technical assistance to recipients of Federal transit grant assistance on practices and methods to best utilize private providers of public transportation
- identify best practices, if requested by a New Starts project sponsor, for public- private partnerships models, develop standard public-private partnership transaction model contracts
- perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction
- identify any regulations or practices that impede greater use of public-private partnerships and private investment in public transportation capital projects and develop and implement approaches similar to Special Experimental Program 15 (SEP-15) for highways
- conduct a study on the effects of contracting out public transit services on cost, availability and level of service, efficiency, and quality of service. The study must specifically look at “the extent of unionization among privately contracted employees” and “the impact to wages and benefits of employees when publicly provided public transportation services are contracted out to a private for-profit entity”
- publish policy guidance regarding how to best document compliance by recipients of Federal assistance with the requirements regarding private enterprise participation in transit planning

Environmental Streamlining

MAP-21 makes several changes that streamline environmental review in order to accelerate project delivery.

Major Streamlining Changes

- Makes permanent the current pilot program that lets USDOT delegate NEPA review authority (currently used by Caltrans). Expands the option to all states and to include rail, public transit and multimodal projects. This would relieve states of a full NEPA process when they have already performed state review, such as CEQA. Clean Air Act determinations are not eligible for delegation to states.
- Sets deadlines for decisions by lead agency and other Federal agencies with responsibilities for environmental review and requires financial penalties for missing deadlines (up to 7 percent of agency budgets).
- Requires USDOT to adopt rules for programmatic approaches to environmental reviews and allows a single modal administration to review a multimodal project.
- Broadens Categorical Exemptions to include projects:
 - in the existing right-of-way
 - receiving less than \$5 million in federal funds, or less than \$30 million overall (with no more than 15 percent federal share)
 - damaged in a state or nationally declared emergency

Other Streamlining Changes

- States may acquire real property before completing NEPA.
- States may be reimbursed for pre-construction and design expenses before NEPA analysis is completed.
- Allows up to 100 percent Federal cost share for projects that use innovative technologies to increase the efficiency of construction and improve the safety and extend the life of highways and bridges.
- Shortens the statute of limitations for filing a challenge to a project from 180 to 150 days.
- Requires USDOT to establish schedules for the completion of all reviews for a project within four years after the Notice of Intent.
- Allows states and MPOs to develop programmatic mitigation plans to address the potential impact of future transportation projects.
- Allows states to use project delivery methods otherwise permissible for highway projects when assuming responsibility for determining Categorical Exclusions.
- Allows lead agency to use Categorical Exclusions of cooperating agencies and modes
- Allows for errata sheets to be used to modify a final EIS and promotes the use of a combined final EIS and Record of Decision.
- Requires USDOT to establish an initiative to review and develop consistent procedures for environmental review and permitting of formula funded projects.

Other Provisions

MAP-21 also covers various safety and other policy areas not of direct relevance to SACOG. The following provisions are worth noting briefly.

Hazmat Training for Emergency Responders:

MAP-21 requires operations-level training for fire fighters that respond to accidents and incidents involving hazardous materials.

Agricultural Exemptions:

- Expands an existing hours of service exemption for drivers transporting agricultural commodities to apply up to a 150 mile radius.
- Creates a new exemption from all Federal motor carrier safety regulations (commercial driver's license requirements, drug and alcohol testing, hours of service, and vehicle inspection, repair, and maintenance requirements) for vehicles operated by farm or ranch owners, operators, their family members, or their employees. Vehicles weighing less than 26,000 pounds are completely exempted, and those weighing more than 26,000 pounds are exempt up to a 150 air mile radius from the farm or ranch.
- Requires USDOT to issue a rule within two years to improve the daytime and nighttime visibility of agricultural equipment operating on a public road.

Issues Not Addressed

Several issues that need to be addressed at the federal level were not included in MAP-21, including:

- No new revenue for Highway Trust Fund, which is unsustainable
- No funding or policies for passenger rail, including Amtrak funding or Positive Train Control
- No funding for high-speed rail
- No policies to address impacts of increased commercial vehicle sizes and weights
- No changes to transit commuter benefit (parking commuter benefit is \$240/mo., while transit benefit is limited to \$125/mo.

Next Steps

Federal

At the federal level, Congress must act to address the automatic budget sequestration provisions intended to reduce the federal deficit by the end of the calendar year. If they do not act, programs not funded by the Highway Trust Fund, such as transit New Starts and Amtrak, could be cut by 7.8 percent. USDOT is starting to issue rulemakings and conduct other work that will stretch through the entire life of MAP-21. Much of this work will determine exact funding levels and how policies in MAP-21 are implemented nationally.

State

At the state level, SACOG staff is working with CALCOG and other MPOs to determine what legislative changes may be necessary to ensure that funding continues to be distributed among regions based on historical proportions. Some of the formula changes in MAP-21 do not match up with state law, so we may be seeking urgency legislation to ensure a seamless implementation on October 1. Some of the federal-state conflicts include:

CMAQ

MAP-21 stipulates a 25 percent set-aside of CMAQ to states for PM 2.5 reduction, but this may be a drafting error. It is unclear how this will be resolved, but most CMAQ projects would likely be eligible, so it is more a question of whether the funding decisions are made by the State or MPOs.

STP

SAFETEA-LU had a 62.5/37.5 Region/State split, but with Transportation Enhancements included, the Regional share was reduced to 56 percent. MAP-21 reduces the STP split to 50/50, and Transportation Alternatives is its own program. The question is whether regions should maintain a greater share, and if so, the appropriate split.

Transportation Alternatives

MAP-21 sub-allocates 50 percent to regions, but staff at MPOs in California would like to pursue a 100 percent suballocation to regions. This is a small amount of funding over broader eligible uses, and moving decision making to the regional level (e.g., Safe Routes to Schools) could provide funding toward SB 375 implementation for MPOs in California.

Public Transit

It is unclear whether NEPA delegation is to Caltrans or transit agencies, if California must apply to receive the delegation, if California needs to modify its legislation waiving sovereign immunity, and if the delegation will be more effective than the current FTA process.

Regional

At the regional level, next steps include:

- working with Caltrans and other MPOs to set statewide performance measures;
- modifying board composition to include representatives of providers of public transportation by 2015;
- defining program criteria for Transportation Alternatives grants;
- considering revisions to criteria for use of CMAQ funds; and
- implementing performance measurement into the MTIP and MTP once state performance measures are in place.

SACOG Region Public Transit Urbanized Area Program Funding Estimates (Fiscal Year 2013)

	Urbanized Area (5307)	Small Transit Intensive Communities	High Density & Growing States (5340)	State of Good Repair (5337)	Bus & Bus Facilities (5339)	Total FY 13 UZA Apportionment
Davis	\$ 1,741,574	\$1,248,627	\$61,838		\$258,454	\$3,310,493
Sacramento	\$22,585,311		\$1,464,225	\$9,101,973	\$2,006,242	\$35,157,752
Woodland	\$1,182,665		\$47,158		\$180,333	\$1,410,156
Yuba City	\$1,983,529		\$99,153		\$290,051	\$2,372,733
Region Total	\$27,493,079	\$1,248,627	\$1,672,374	\$9,101,973	\$2,735,080	\$42,251,134

Source: APTA

SACOG Region Highway Program Funding Estimates (Fiscal Year 2013)

	National Highway Performance	Surface Transportation	Highway Safety Improvement	CMAQ	Metropolitan Planning	Transportation Alternatives	Estimated Apportioned Total
Region Total	\$113,844,174	\$52,364,745	\$12,510,349	\$26,715,194	\$2,851,217	\$4,338,718	\$212,624,396

Source: FHWA and SACOG calculations