



Government Relations & Public Affairs Committee

January 30, 2015

State and Federal Advocacy Update

Issue: Update on state and federal issues affecting SACOG and its members.

Recommendation: This item is for information only.

Discussion: Congress and the State Legislature spent most of January orienting new members, making committee assignments, and tending to other general business.

State

State legislation must be introduced by the end of February, which means that most state activity is still a few months away. On January 9, Governor Brown released his proposed 2015-16 budget. The takeaway for transportation is that there are increases to a few specific programs, but no proposals to increase transportation funding significantly. More details on the budget proposal will be released by the Department of Finance over the next few weeks. The Governor will revise his budget in May, and the Legislature will have until June 15 to pass a final budget.

New transportation revenue

In the Governor's inaugural address on January 5, he called for a bipartisan fix to the transportation maintenance backlog. However, the budget included few details in his budget. Governor Brown is not supportive of using bonds to pay for transportation, as was done most recently through the \$19.9 billion Proposition 1B in 2006. Instead, the budget proposal mentioned two potential long-term funding sources: a road-user charge based on miles driven, and expanded use of tolling. Legislation enacted last year established a Road Usage Charge Pilot Program, which must prepare a report and recommendations by June 2018. The budget indicated that the Administration will propose legislation to restore authority for new high-occupancy tolling (HOT) lanes, as well as allow for the conversion of existing high-occupancy vehicle (HOV) lanes to HOT lanes. This legislation is envisioned to give the California Transportation Commission broad authority to authorize HOT lane projects.

Cap and trade implementation

The Governor's budget also proposed increasing the cap and trade program from \$850 million this fiscal year to \$1 billion. For the programs of interest to SACOG, he proposes:

- Affordable Housing and Sustainable Communities: \$200 million (up from \$130 million)
- High-speed rail: \$250 million (unchanged)
- Transit/Intercity Rail Capital: \$100 million (up from \$25 million)
- Low-Carbon Transit: \$50 million (up from \$25 million)

Redevelopment and assistance to cities and counties

The Governor pledged to have a process that gets to a “last and final” funding agreement for each former redevelopment agency by this September. However, the League of Cities has several concerns about the details of the proposal. The Governor pledged to repay local governments \$533 million for unfunded mandates prior to 2004. These repayments were regularly deferred until the current year, when the budget repaid \$100 million. This repayment would pay off all of the pre-2004 outstanding debt.

Crude oil by rail

The Governor proposed \$10 million for the Regional Railroad Accident Preparedness and Immediate Response Fund. The Office of Emergency Services (OES) would coordinate with local agencies to respond to hazmat events from railroads. OES would use the funding to purchase specialized equipment and fund training.

New Leaders and Legislators

In addition to the new Speaker of the Assembly, Toni Atkins (San Diego) and Senate President Pro Tem, Kevin De Leon (Los Angeles), there are new transportation committee chairs. In the Assembly, Jim Frazier, who represents Contra Costa County and a small portion of southern Sacramento County. In the Senate, Jim Beall, who represents San Jose.

In the Sacramento region, six new members took office at the state level. Assembly District 3 (Sutter and Yuba counties) is now represented by James Gallagher. Assembly District 4 (Yolo County, except West Sacramento) is now represented by Bill Dodd. Assembly District 7 (West Sacramento and the City of Sacramento) is now represented by Kevin McCarty. Assembly District 9 (Elk Grove, Galt, southern Sacramento County) is now represented by Jim Cooper. Senate District 6 (West Sacramento, Sacramento, Elk Grove) is now represented by former Assembly Member Dr. Richard Pan. Senate District 8 (Rancho Cordova, southeastern Sacramento County) is now represented by Tom Berryhill.

Federal

Attached is a monthly update from SACOG’s federal policy consultant, Transportation for America. SACOG staff Mike McKeever and Erik Johnson, along with Board Chair Don Saylor and Vice Chair Susan Rohan are in DC the week of February 9. Staff will report back on their meetings at the March committee meeting.

Approved by:

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Attachment

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CURRENT NEWS**OBAMA CALLS FOR INFRAStructure FUNDING BUT NOT GAS TAX INCREASE
IN STATE OF THE UNION ADDRESS**

President Barack Obama called for a bipartisan infrastructure plan but did not express support for using a hike in the federal gas tax to pay for it.

“21st century businesses need 21st century infrastructure—modern ports, stronger bridges, faster trains and the fastest internet,” said the President. “Democrats and Republicans used to agree on this. So let’s set our sights higher than a single oil pipeline. Let’s pass a bipartisan infrastructure plan that could create more than thirty times as many jobs per year, and make this country stronger for decades to come.”

While there has been a growing willingness to talk about raising the gas tax amongst Republicans on Capitol Hill, President Obama stuck to his previous proposals of closing corporate tax loopholes to pay for transportation projects.

As the nation approaches a May deadline to infuse more funding into the federal surface transportation program or cut back the program, some prominent Republicans have voiced a willingness to discuss adjusting the gas tax.

The new chair of the Senate Environment and Public Works Committee has said that raising the gas tax is “clearly one of the options” to fix roads and bridges. Senate Finance Committee Chairman Orrin Hatch of Utah and Senate Commerce Committee Chairman John Thune of South Dakota said they were open to the idea, and Senator Bob Corker of Tennessee has sponsored a bill to raise the gas tax.

And several other members of Congress reacted positively to the President’s call for more funding in the State of the Union address.

“While I strongly disagree with his core policies, I do believe there is an opportunity for both parties to find common ground on issues to strengthen our nation’s economy, such as infrastructure,” Rep. Bill Shuster, chairman of the Transportation and Infrastructure Committee, said in a statement after Obama concluded his remarks.

“Based on POTUS speech, I believe there's opportunity for bipartisan cooperation on strengthening our transportation infrastructure,” Sen. Kelly Ayotte (R-N.H.) tweeted after Obama’s speech.

However, that openness is far from universal. Rep. Paul Ryan, chairman of the House Ways and Means Committee, ruled out Thursday the possibility of raising the gas tax, saying clearly, "We won't pass the gas tax."

And while House Speaker John Boehner did not totally rule out a gas tax increase and said that more funding was needed for transportation infrastructure, he said that he doubted there were enough votes in the new Republican-majority Congress to raise gasoline taxes.

"I've never voted to raise the gas tax," Boehner said. He also pointed out that, when the Democrats controlled Congress, they could not find the votes to raise the gas tax; so it is unlikely that the new Republican-majority Congress could muster enough support to pass it.

NEW CAPITOL HILL LEADERSHIP TAKES SHAPE

The Republican and Democratic caucuses have held their organizing meetings within each of the committees and announced the new committee and subcommittee leaders. Listed below are the transportation leaders, as well as some other areas of concern for SACOG.

House Transportation and Infrastructure Committee

Bill Shuster (PA-09), Chair

John Duncan (TN—02), Vice Chair

Peter DeFazio (OR-04) Ranking Member

Subcommittee on Highways and Transit

Sam Graves (MO-06), Chair

Eleanor Holmes Norton (DC-01), Ranking Member

Subcommittee on Railroads, Pipelines and Hazardous Materials

Jeff Denham (CA-10), Chair

Michael Capuano (MA-07), Ranking Member

Subcommittee on Aviation

Frank LoBiondo (NJ-02), Chair

Rick Larsen (WA-02), Ranking Member

Subcommittee on Coast Guard and Maritime Transportation

Duncan Hunter (CA-50), Chair

John Garamendi (CA-03), Ranking Member

Subcommittee on Economic Development, Public Buildings and Emergency Management

Lou Barletta (PA-11), Chair

André Carson (IN-07), Ranking Member

Subcommittee on Water Resources and Environment

Bob Gibbs (OH-07), Chair

Grace Napolitano (CA-32), Ranking Member

House Appropriations Committee

Hal Rogers (KY-05), Chair

Nita Lowey (NY-17), Ranking Member

Subcommittee on Transportation, Housing and Urban Development

Mario Diaz-Balart (FL-25), Chair

David Price (NC-04), Ranking Member

Subcommittee on Agriculture and Rural Development

Robert Aderholt (AL-04), Chair

Sam Farr (CA-20), Ranking Member

Subcommittee on Energy and Water Development

Mike Simpson (ID-02), Chair

Marcy Kaptur (OH-09), Ranking Member

Subcommittee on the Interior, Environment

Ken Calvert (CA-42), Chair

Betty McCollum (MN-04), Ranking Member

Subcommittee on Labor, Health and Human Services, Education

Tom Cole (OK-04), Chair

Rosa DeLauro (CT-03), Ranking Member

Senate Appropriations Committee

Thad Cochran (MS), Chair

Barbara Mikulski (MD), Ranking Member

Subcommittee on Transportation, Housing and Urban Development

Susan Collins (ME), Chair

Jack Reed (RI), Ranking Member

Subcommittee on Agriculture and Rural Development

Jerry Moran (KS), Chair

Jeff Merkley (OR), Ranking Member

Subcommittee on Energy and Water Development

Lamar Alexander (TN), Chair

Dianne Feinstein (CA), Ranking Member

Subcommittee on the Interior, Environment

Lisa Murkowski (AK), Chair

Tom Udall (NM), Ranking Member

Subcommittee on Labor, Health and Human Services, Education

Roy Blunt (MO), Chair

Patty Murray (WA), Ranking Member

Environment and Public Works Committee

Jim Inhofe (OK), Chair

Barbara Boxer (CA), Ranking Member

Subcommittee on Clean Air and Nuclear Safety

Shelley Moore Capito (WV), Chair

Ranking member, not yet announced

Subcommittee on Fisheries, Water and Wildlife

Dan Sullivan (AK), Chair

Ranking member, not yet announced

Subcommittee on Transportation and Infrastructure

David Vitter (LA), Chair

Ranking member, not yet announced; however, it is expected that Tom Carper (DE) will receive this position.

Commerce, Science and Transportation Committee

John Thune (SD), Chair

Bill Nelson (FL), Ranking Member

Subcommittee on Aviation Operations, Safety, and Security

Kelly Ayotte (NH), Chair

Ranking member, not yet announced

Surface Transportation and Merchant Marine Infrastructure, Safety, and Security

Deb Fischer (NE), Chair

Ranking member, not yet announced

Banking, Housing and Urban Affairs Committee

Richard Shelby (AL), Chair

Sherrod Brown (OH), Ranking Member

Subcommittee on Housing, Transportation, and Community Development

Chair, not yet announced

Ranking member, not yet announced

BIPARTISAN FINANCE COMMITTEE TAX REFORM WORKING GROUPS LAUNCHED

Finance Committee Chairman Orrin Hatch of Utah and Ranking Member Ron Wyden of Oregon announced the launch of five separate bipartisan Finance Committee Tax Working Groups to spur congressional comprehensive tax reform efforts in the 114th Congress. It is widely believed that comprehensive tax reform is the most likely vehicle for a gas tax increase or other mechanism to fill the funding gap in the surface transportation program.

The groups will be led by one Republican and one Democrat and work with the Joint Committee on Taxation to analyze current tax law and examine policy trade-offs and available reform options within the group's designated topic areas. The goal is to have one final comprehensive report featuring recommendations from each of the five categories completed by the end of May. This is obviously too late to provide a solution for funding the

transportation program, which will need more funding by the end of May; so another short-term extension is likely.

Policy focus areas and co-chairs are:

- Individual Income Tax – Senator Chuck Grassley (R-Iowa) & Senator Mike Enzi (R-Wyo.), Senator Debbie Stabenow (D-Mich.)
- Business Income Tax – Senator John Thune (R-S.D.) & Senator Ben Cardin (D-Md.)
- Savings & Investment – Senator Mike Crapo (R-Idaho) & Senator Sherrod Brown (D-Ohio)
- International Tax – Senator Rob Portman (R-Ohio) & Senator Chuck Schumer (D-N.Y.)
- Community Development & Infrastructure – Senator Dean Heller (R-Nev.) & Senator Michael Bennet (D-Colo.)

NEXT STEPS FOR THE BUILD AMERICA INVESTMENT INITIATIVE

Last summer, President Obama launched the [Build America Investment Initiative](#), calling on federal agencies to find new ways to increase investment infrastructure, which included the Build America Interagency Working Group, co-chaired by Treasury Secretary Jacob Lew and Transportation Secretary Anthony Foxx.

Last week, based on the [recommendations](#) of that working group, the Administration announced a series of next steps. This included the:

- launching of the “Water Finance Center” at the Environmental Protection Agency to bring together investors and project sponsors, provide peer-to-peer learning and workshops, and develop case studies and toolkits.
- creation of the Rural Opportunity Investment Initiative at the U.S. Department of Agriculture to leverage private financing against existing USDA resources and to catalyze rural investment opportunities including public-private collaborations like the \$10 billion [Rural Infrastructure Opportunity Fund](#) launched last year.
- proposal of the Qualified Public Infrastructure Bond (QPIB) to extend the benefits of municipal bonds to public private partnerships. Similar to Private Activity Bonds (PABs), QPIBs will have an expanded scope to include financing for airports, ports, mass transit, solid waste disposal, sewer, and water. Unlike PABs, the QPIB bond program will have no expiration date, no issuance caps, and interest on these bonds will not be subject to the alternative minimum tax. More details are expected in the President’s budget next month.
- announcement that the Build America Transportation Infrastructure Center at USDOT will release new products, including supplemental provisions for toll concession model contracts and a new guide on incorporating Federal-aid funding into P3s.
- announcement that the Administration will host a session and roundtable on infrastructure at the [March 2015 SelectUSA Investment Summit](#) to focus on opportunities for public-private partnerships in infrastructure investment. This summit will bring together over 2500 leading investors and executives from around the world and connect them with US business opportunities.

FOXX LAUNCHES CHALLENGE FOR SAFER PEOPLE AND STREETS

Secretary Foxx announced this week the "Mayors Challenge for Safer People and Safer Streets," which is another piece of the USDOT's pedestrian and bicycle safety initiative.

The new challenge invites mayors and local elected officials to attend a Safer People, Safer Streets Summit in March and focus over the next year to take action to make pedestrian and bicycle transportation safety in their respective cities. The Mayoral Summit at USDOT will provide best practices to the mayors on how build upon and implement the challenge's seven activity areas that are drawn from recommended actions stated in the [2010 USDOT Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations](#).

USDOT plans to work with mayors and local elected officials to showcase effective local actions to improve safety, empower local leaders to take action, and promote partnerships to advance pedestrian and bicycle safety. The Mayor's Challenge isn't a funding program, but rather an initiative to speed up implementation of best practices.

Cities can join the challenge [here](#) or by emailing their Team Leader's contact information to pedbikesafety@dot.gov.

FEINBERG APPOINTED TO HEAD FEDERAL RAILROAD ADMINISTRATION

Secretary of Transportation Anthony Foxx has appointed Sarah Feinberg as acting administrator of the Federal Railroad Administration (FRA). Former FRA Administrator Joseph Szabo stepped down on January 9th.

Feinberg joined the Department in September 2013 as chief of staff to Sec. Foxx. One of her key priorities was to lead efforts to develop and release the \$302 billion surface transportation reauthorization plan sent to Congress last year. Dorval Carter, formerly chief counsel for the Federal Transit Administration, will take over as chief of staff.

Prior to joining the Department, Feinberg was director of corporate and strategic communications for Facebook, where she managed Washington, D.C.-based outreach and communications, as well as the company's political and crisis communications. She previously served as director of communications and business strategy for Bloomberg LP.

Feinberg also served in the Obama administration as special assistant to the president and senior adviser to White House Chief of Staff Rahm Emanuel. Prior to that, she was communications director for the House Democratic Caucus, press secretary at the Democratic Congressional Campaign Committee and national press secretary to former Senate Minority Leader Tom Daschle (D-S.D.).

WHAT TO WATCH

BIPARTISAN BILL TO FUND TRANSPORTATION WITH REPATRIATION

Senator Rand Paul (KY) plans to soon introduce a bill with EPW ranking member Barbara Boxer (CA) that would use revenue from a tax on companies' overseas earnings to shore up the Highway Trust Fund.

Paul supported a similar effort last summer with then-Majority Leader Harry Reid. When asked about the proposal, Paul responded, "I'm working with Barbara Boxer. We're very close to getting a bill written that will reduce the tax to bring that money home and then put the money, designate it for the highway fund." Paul also stated that his biggest opposition "is actually Republicans" who only want repatriation in the context of a broader corporate tax overhaul.

VMT PROJECTIONS

The Federal Highway Administration has adjusted their projections for future driving trends, acknowledging the slowing growth in the number of miles driven each year.

This change was released quietly in May by a posting to their website and is a significant departure for the federal agency charged with projecting the need for highway capacity and expected gas-tax receipts in the U.S. For the last several years, projections have substantially over-estimated the growth of vehicle miles traveled (VMT), while it was actually declining for several years before rebounding to a tepid pace more recently.

[In this short document](#), FHWA projects that the amount of driving done by each American is unlikely to grow in the years to come. In this new FHWA projection, though the actual amount of VMT is still projected to increase by 0.75 percent annually from 2012 to 2042, U.S. population is projected to grow by about 0.7 percent each year in that period. This means that driving per person is likely to remain flat. As FHWA's report notes: "This represents a significant slowdown from the growth in total VMT experienced over the past 30 years, which averaged 2.08% annually."

This change has huge implications for funding the program and for future toll roads. Building a new road, tolling an existing one, selling the rights to toll a road to a private company — those decisions are often being made using outdated and inflated VMT projections.

FEDERAL RAILROAD ADMINISTRATION DELAYS TANK CAR RULE

Final regulations for phasing out older freight-rail tank cars carrying crude oil and ethanol as well as new standards for the next generation of tankers will be released in May instead of by the end of March, as expected.

A phase-out of DOT-111 tankers carrying Class 1 flammable materials was proposed to take place by October 2017 and a phase-out of those carrying Class 2 liquids by October 2018.

Some in the railroad and petroleum industries believe this will lead to shortages. In comments to the proposed rule, they stated their belief that the tank car industry does not have the capacity to retrofit the estimated 143,000 tank cars to meet the new specifications. Nor do they believe that manufacturers can build new tank cars fast enough.

About 70 percent of crude oil shipped to refineries from the Bakken Shale Formation in North Dakota and Montana — and 70 percent of ethanol shipped to refineries — is transported by rail, according to the American Fuel and Petrochemical Manufacturers, a trade group representing 120 U.S. refineries.

Most of the rail shipments are on unit trains containing at least 100 tank cars filled with crude oil or ethanol. That has raised safety concerns in communities adjacent to the routes.

According to the National Transportation Safety Board (NTSB), the DOT-111 tank cars currently in use "pose an unacceptable risk." The NTSB has listed rail tank-car safety among its "top 10" most wanted transportation improvements in 2015.

PERFORMANCE MEASURES RULE IS OUT AND IMPROVED

The U.S. Department of Transportation released the second of three proposed rules to measure the performance of our nation's transportation investments. This one address pavement and bridge conditions. Unlike the first proposed rule, which looked at safety performance and had [serious deficiencies](#), this rule is much improved and very well-written.

USDOT listened to the feedback offered by the public during the comment period following the first proposed rule and made some important changes to this second proposed rule for measuring road and bridge conditions to increase accountability and transparency of our limited transportation dollars. For example, under the safety rule, states could get a passing grade for making progress to just half of the statutorily required measures. Under the new draft rule, they would have to address all required measures.

It is clear that USDOT is listening to the public and open to changing their approach. This is an important thing to know as we approach the third rule, which will cover the measures for congestion, freight and mobile source emissions. These measures are new to the surface transportation program and will have profound impacts on the way states and MPOs address transportation challenges in the future.

A full analysis of the rule is attached.