

# The County Connection

**TO:** Board of Directors

**DATE:** December 7, 2011

**FROM:** Rick Ramacier  
General Manager



**SUBJECT:** 2011 Legislative Review & 2012  
Legislative Preview

## 2011 State Legislative Review

The 2011 state legislative session was largely positive for public transit. This is largely due to the full funding of the State Transit Assistance (STA) program in the FY11 state budget. Additionally, no legislation of significance that would affect public transit in a negative manner was enacted.

Near the very end of the session, Senator Steinberg attempted to move legislation that would have authorized Metropolitan Planning Organizations (MPO) to seek voter approval for certain gas fees to be used for transportation projects that directly benefit the fee payer. Transit capital and operating expenses would have been eligible to receive these funds. Many unanswered questions about return to source, nexus issues, and whether or not Proposition 26 would apply to the legislation were such that the legislation was never considered.

Senator DeSaulnier considered moving legislation that would have reformed Medi-Cal transportation. Among other things, it would have allowed for the reimbursement of fixed route fares in getting to and from Medi-Cal sponsored medical appointments. Currently, state law forbids this. Thus, anyone who is eligible for Medi-Cal sponsored transportation must use a paratransit van service or an ambulance – even for routine medical appointments. This legislation also would have made it administratively easier for CCCTA to act as a Medi-Cal transportation broker thereby creating opportunities for greater paratransit coordination and an overall lowering of costs.

However, Senator DeSaulnier put this legislation aside after the Legislative Analyst Office (LAO) opined that this legislation would cost the state more money. In response, the California Association for Coordinated Transportation (CalACT) has commissioned a white paper to show how such legislation would actually save the state money. Also, CalACT is working with the Governor's Strategic Growth Council (SGC) on promoting the financial benefits to greater Medi-Cal transportation coordination.

Finally, legislation that would have given MPOs the ability to require businesses to play a greater role in underwriting transit or in some other way – support it, passed the legislature but was vetoed by the Governor.

## 2011 Federal Legislative Review

Very little has occurred at the federal level this year. The two most significant items in play at the federal level have been the FY12 budget and the effort to reauthorize the transportation bill. As of November 18, 2011, the Congress has passed a FY12 transportation appropriations bill that the President will sign – when he is sent the rest of the FY12 budget. Meanwhile, the FY12 federal transportation program is supported by a continuing resolution that will expire on December 17, 2011. The level of transit funding

in the transit formula program (where our grant funding lies) is relatively flat over FY11. Thus, we are likely to be able to draw down our FY12 grants at some point as planned and budgeted for.

In recent weeks, we have seen movement in the effort to enact the extremely overdue federal transportation reauthorization. The Senate Committee on Environment and Public Works (EPW) advanced on an 18-0 vote, a two-year reauthorization bill that contains a total spending package of \$109 billion. This would keep the program on the same funding levels as it has been in recent years when factoring in expected rates of inflation. However, this bill projects a \$12 billion shortfall in gas tax receipts necessary to pay for it. The transit title of the bill has yet to be written by the Senate Committee on Banking, Housing, and Urban Affairs (BHUA). This is expected to occur in early December.

The House seems to be taking a different approach to reauthorization at the moment. Right before Thanksgiving, House Speaker John Boehner announced his intent to have the Republican Caucus introduce the comprehensive "American Energy & Infrastructure Jobs Act." This would be five year bill that would not only reauthorize the federal transportation program, but would expand offshore oil and gas drilling, expand oil shale production, and expand oil exploration in the Arctic National Wildlife Reserve. This is the first time in the history of the federal transportation program that its authorization has been directly placed inside legislation regarding significant energy policy.

Currently, we are under one of many temporary extensions of the long expired SAFETEA-LU as far the federal transportation program is concerned.

## **2012 State Legislative Preview**

Given that this is the second year of a two year session, and that it is an election year, we should not expect too much from the Legislature in 2012. However, we will want to watch the budget action closely as it relates to our STA funding and to the selling of Proposition 1B transit bonds. We can expect to see proposals to make it easier for local and/or regional areas to consider asking their voters for more revenue for transportation. In a somewhat related effort, the legislature may pursue some sort of cap and trade legislation that could provide transit funding. We may also see pension reform proposals as well. And, we could see opportunities to further push the idea of Medi-Cal transportation coordination and reform. Finally, more specific proposals to reform state government may emerge.

Below is brief discussion on likely budget issues.

### STA Funds

Although our STA funds are seemingly safe because of Proposition 22, the legislature may be tempted to find a creative way to divert them. It should be noted that an announcement is expected this month stating that the state has \$13 to \$16 billion dollar shortfall over FY11 and FY12. Furthermore, given that at least \$3 billion of that shortfall is likely in FY11, budget cut triggers are due to occur under current state law sometime early next year. Because many of these cuts are in education, and the great hardship they would create, there is talk of a special session in December to rework the cuts that will be triggered by the expected shortfall in the FY11 budget.

Proposition 22 only allows the reduction or elimination of STA funding by reducing or eliminating the fund source –which is the sales tax on diesel fuel. The state did this once before to get at STA via the so-called gas tax swap. However, Proposition 26 works to take away the incentive to do a diesel tax swap as it would now take a 2/3 vote to raise another tax in a like amount to the amount of tax reduction to be had should the diesel sales tax rate be lowered or eliminated. Prior to Proposition 26, such a swap could be done by majority vote. Thus, it was easier to lower one tax and raise another – like the gas tax swap. In

short, it is likely that a reduction in the sale tax on diesel fuel (STA source) would not lead to an increase in the general fund because of Prop 26. This takes away from the incentive to reduce or eliminate the sales tax on diesel fuel.

However, recent history suggests that as the state budget crises continues to be unresolved, new attempts may be thought up to raid STA once again.

#### Proposition 1B

Proposition 1B transit bonds have been slow to be let by the state. This has held up capital projects such as ours. The state finally began to play a little catch up in getting these bonds out on the street. Thus, we will receive over \$1 million in these funds for FY11 to use on vehicle replacement projects. We will need to keep the pressure on to get a bond sale for FY12 in a timely manner.

#### Local Option

Legislation will be introduced to give regions or local areas greater ability to ask their voters for new gas fees to pay for transportation improvements including transit operations. Legislation of this type will likely be tied somehow to implementation of AB32 and SB375. We will likely be asked to weigh in on this and such legislation could benefit CCCTA as well.

#### **2012 Federal Legislative Preview**

Even less should occur at the federal level this year than at the state level. Assuming the recently passed FY12 transportation appropriations bill is signed into law, we should expect the FY13 bill to be done after the November 2012 election.

As far as the federal reauthorization goes, the Senate and House are going in two very different directions. Thus, I do not see them taking action to merge their respective bills during this election year. Rather the Congress will likely pass yet another temporary extension of SAFETEA-LU that keeps things going through the November election. This likely inaction gives us the opportunity to review our own principles on reauthorization.

#### **Action Requested**

Staff has provided this report to you by way of background as we prepare to draft CCCTA Legislative Programs for 2012. The MP & L Committee and staff would like your feedback and direction in preparing a draft legislative program for the Board of Directors to consider in January.