

To: Marketing, Planning, & Legislative Committee

Date: December 30, 2015

From: Rick Ramacier, General Manager

SUBJECT: Legislative Update

FEDERAL

Fixing America's Surface Transportation Act (FAST)

As you know, the Congress passed a comprehensive transportation re-authorization bill that was signed into law late in 2015. Fixing America's Surface Transportation Act (FAST) is a five year act that goes through FY20. It authorizes \$305 billion in total spending, \$281 billion from the trust funds and \$24 billion from the general fund. For transit, just under \$49 billion is authorized. Of this, \$12 billion is to come from the general fund.

For County Connection, the new authorization will provide enough funding to cover our planned replacements of buses and paratransit vehicles through FY20. We also should continue to receive an estimated \$1.5 million a year in ADA paratransit contracting assistance.

More Towards Safety

FAST contains language that requires the Secretary of Transportation to issue a Notice of Proposed Rule-Making (NPRM) that would increase the safety of transit employees operating vehicles with respect to passenger behavior. This is an overdue recognition of a difficult issue that has been growing in recent years.

FAST carries over all of the key elements of the Moving Ahead for Progress in the 21st Century Act (MAP 21) including the new safety, and asset management requirements of MAP 21. Those provisions are quite extensive and are just in the beginning stages of the applicable federal rule making that is needed to implement them. These new safety and asset management requirements are going to require County Connection to change some policies and procedures going forward.

More Funding for Buses

FAST partially address a need identified by the Bus Coalition. The Bus Coalition is made up of many medium or small sized public transit systems across the country. Their main focus has been the restoration of the bus and bus facilities program within the federal program. This program was greatly reduced in MAP 21 from the previous authorization. The funds were largely transferred to the state of good repair program that largely favors rail systems and projects. The result was that many bus systems lost access to federal capital funding in MAP 21 that they had previously enjoyed access to. In MAP 21, the bus and bus facilities program was cut by at least 75%. This was largely achieved via the elimination of earmarks. It is worth noting that this did not impact the Bay Area as MTC worked to overcome this situation within the regional funding programs.

FAST restores a fair amount of that funding through a new program called the bus and bus facilities discretionary program. This program will be allocated on a discretionary basis as overseen by the US Department of Transportation. FAST provides for \$1.5 billion over the five years of the act. Of this, \$55 million a year is reserved for "low or no emission buses". It is anticipated that California transit systems may try to access these funds as

they work to comply with new bus emission rules expected to be adopted by the California Air Resources Board (CARB) in 2016.

Financing FAST

The funding for FAST is primarily made up of federal gas tax funds. However, of the \$281 billion in Highway Trust Fund (HTF) money that supports FAST, \$70 billion of it comes in the form of a transfer from the general fund in one time so-called “pay fors”. So, in essence, FAST contains \$211 billion in HTF money versus \$94 billion in “other” money. Thus, actual gas taxes will make up 69% of the FAST authorization.

This makes FAST funding very dependent on future appropriations made in each year’s federal budget. For years, transportation was largely firewalled from the annual allocation process in congress. This is no longer the case. Thus, transit will need to be actively engaged in working with congress each year on the budget appropriations process.

Omnibus Appropriations and Tax Extenders Bill

In December, a full budget was enacted for FY16. This included an omnibus appropriation which funds transit to the expected levels. This legislation also enacted the “tax extenders agreement”. This agreement includes raising the transit commuter benefit from \$130 to \$255 per month, creating parity with a similar program for commuter parking. This is something that will help many of our jurisdictions implement their AB32 and SB375 related plans and/or programs.

Federal Outlook for 2016

With it being a presidential election year, not much is expected to happen in congress. And, with an FY16 budget bill in place, we will turn our attention to the FY17 budget process. While a FY17 budget is not due until September 30, 2016, the level of transit funding for FY17 will be very much determined by the related budget deliberations – especially as it related to appropriations.

Thus, transit appropriation levels for the FY17 will be a focus for public transit. The process of developing a FY17 budget would ordinarily begin in the spring of 2016 with a “budget resolution” setting an overall spending cap. However, a timely “budget resolution” has not been acted on in years. That said, I expect the FY17 transit appropriations topic to be our focus when County Connection is in Washington DC this March.

STATE

2015 Recap

Funding

There were no takeaways or additions to public transit in the FY16 state budget. State Transit Assistance (STA) funding was slightly down due to the decrease in the price of diesel fuel at the pump. Diesel fuel is the only source of STA funding.

Bus Axle Weight

After many years, the state finally enacted legislation increase bus axle weight limits. These new limits can be met and they push the bus manufacturing industry to meet lower weight requirements over time.

SB9 – Beall

This legislation cleans up the rules for allocations under the state cap and trade program known as the Transit Capital & Intercity Rail Program. In short, this will make it easier for agencies like County Connection to compete for these funds, should we have a good candidate project in the future.

Extraordinary Session on Transportation

Late in the legislative session, the Governor called an extraordinary session on transportation to primarily address the significant lack of funding for transportation – particularly with respect to street and road, and highway maintenance. In addition to the bills introduced to address road funding, bills were introduced to address transit funding. One set of bills would have raised the sales tax on diesel thereby increasing STA funding. This would have provided County Connection with significant increases in our operating funding. The other set of bills would have doubled the amount of transit funding from the cap and trade program. This too would have been of significant help to County Connection.

Thus far, the extraordinary session has not produced any legislation. The main sticking points surround how to fund any new transportation spending. It is expected that work in the extraordinary session will pick up sometime in 2016.

2016 Preview

Budget

The state budget process should not impact STA funding. Final STA levels will be dependent on diesel prices at the pump. However, cap and trade based funding could come into play in the budget process as this is used in part to determine when and which cap and trade auctions are held.

Cap and Trade Allocation Refinements

As you know, the state uses a process to determine what a “Disadvantaged Community (DAC)” is for the purpose of allocations from both the Transit Capital & Intercity Rail Program (TCIRP) and the Low Carbon Transit Operations Program (LCTOP). The current process – reliant on the CalEPA’s CalEnviroScreen – is not fair to the Bay Area. Furthermore, the only the DAC within our service area is in Martinez. Which means the Monument Corridor in Concord is not considered a DAC.

For County Connection to take full advantage of the potential cap and trade funds it is eligible to receive, a broader definition of what is DAC is most likely needed. To that end, staff has begun to discuss potential legislative concepts relative to updating to process for determining DACs with the office of Assembly Woman Bonilla. These discussions include MTC staff as well. The potential to seek legislation to redefine DACs is being looked at with some emphasis.

Bus on Shoulder

One of the recommendations coming out of the Contra Costa Transportation Authority (CCTA) I-680 Transit Investment & Congestion Relief Study is additional express bus service in the corridor. The study also recommends that such service possibly take advantage of time savings from Bus on Shoulder (BOS) operations. This type of operation has been successful in other states. Legislation is needed to do this in California. In addition to the I-680 corridor, transportation interests in Alameda, Monterey, Santa Cruz, and San Diego counties are interested in BOS services. Thus, the California Transit Association (CTA) will be seeking to find an author in 2016 to pass legislation that allows for BOS service if certain conditions exist.

ACTION REQUESTED

Staff wishes to review this report with you at your meeting in January. Staff will ask you to forward this report to the Board as information.