

To: Board of Directors

Date: January 3, 2018

From: Rick Ramacier, General Manager

SUBJECT: Federal and State Legislative Update

FEDERAL

The current federal transportation authorization is not due to expire for a few years. However, the current administration remains very interested in regulatory reform and as well as pushing a general infrastructure initiative. Also, the need to address the looming bankruptcy of the highway trust fund (HTF) and its associated mass transit account (MTA) remains to be addressed. The prospects on each of these are briefly touched on below.

Regulatory Reform

The US Department of Transportation (DOT) has asked the transit community to offer ideas on which federal regulations could be streamlined without legislation to make the provision of service more efficient and to make capital projects less expensive and more timely. To date, individual transit operators as well as the American Public Transportation Association (APTA) have commented twice on DOT requests for comments on how to streamline federal regulations. Topics of comment have generally included procurement, project delivery, federal review of grantees, bus testing, interpretations of Americans with Disabilities Act (ADA) rules, Disadvantaged Business Enterprises (DBE) rules, and rules affecting labor rights.

I have sent in two sets of comments. Both focused on federal review consistency and appropriateness as well as suggesting minor adjustments to how federal labor protections are processed. A growing theme is the need to update and reform regulations so that public transit operators are able to become true 21st century mobility providers and make use of any number of new and emerging technologies.

As interested parties work to update and modernize federal transit regulations, we have seen and can expect to see opposition from interested parties that thrive under the current set of regulations. Thus, progress on this can be expected to be jagged and on-going. Yet, if public transit is going to thrive and be relevant into the future, many long standing federal regulations require updating and modernization.

Infrastructure Initiative

The current administration has expressed a strong interest in pursuing a comprehensive infrastructure package. This would include transportation, water, electrical, etc. The amount of money being discussed by the administration is about a trillion dollars. The congress has been less enthusiastic.

With tax reform enacted, and a seemingly recognition that healthcare reform will not be a top priority this spring, talk is that an infrastructure package debate could take center stage in Washington DC. As part of any infrastructure package, public transit is very likely to be included. How and to how much is not at known. However, public transit should be communicating its needs and ideas for transit investment now.

If an infrastructure package does move, it is likely to be sooner rather than later. Given electoral cycle history, the congress is likely to be in full re-election condition by June. Thus, the ability to get anything significant done will be slight. Furthermore, the funding of any large infrastructure package is likely going to lead to a contentious debate.

Interestingly, an infrastructure package could be something that is done in a bipartisan manner as they have been historically. That could perhaps make passing an infrastructure package all but impossible. However, public transit should be ready to assume that one is going to move and should be advocating for its needs.

Highway Trust Fund & Mass Transit Account

The federal gas tax remains at 18.3 cents per gallon which is the same as it was in 1993. Thus, we are faced with the prospect of the HTF and the MTA going broke by 2020. There has been and there still is no appetite to increase or index the federal gas tax. Moreover, there is no general consensus on any solution to the funding shortfall.

There was an effort to use the tax reform bill as a way to raise money to shore up the shortfalls in the two accounts. However, those efforts were dropped in order to get the legislation passed.

As of right now, there are no specific proposals to fund the HTF or the MTA shortfalls. An infrastructure proposal could be a vehicle to do that.

This should be a focus of any transportation advocacy work until such time as the programs are restored to full funding.

STATE

As you know, that state enacted SB1 last year. This provides new funding for transportation, including public transit. It does this through a series of tax increases. There are at least two efforts under way to place a repeal of the tax increases within SB1 on the California ballot in November of 2018. Thus, most of the transportation advocacy community in California will be focused on fending those ballot measures off. And, it is almost certain that no new transportation funding proposals will be introduced into the legislature in 2018. However, other issues remain to be pursued in the state legislature in 2018 and they are very briefly touched on below.

Outstanding Issues Related to Cap and Trade Transit Funding

With the solidification of the state cap and trade program through legislation and court action, cap and trade auctions are at high levels. For example, the County Connection share of the cap and trade Low Carbon Transit Operations Program (LCTOP) is projected to be over \$800,000 in FY19 over the roughly \$300,000 received for FY18. This is great news and of course, significant. However, the use of these funds have become more restrictive. Since the inception of the cap and trade LCTOP, County Connection and many other transit operators have been working to change the state definitions that guide these expenditures. Currently, we must spend half of our annual share

on service that directly serves the neighborhood directly next to the refinery in Martinez. Efforts to change state law to make it easier for County Connection to use the LCTOP funds elsewhere within the service area will continue. However, the next concentrated effort may not occur until 2019.

Bus On Shoulder

Interest in this concept continues to grow both in California as well as in other parts of the country. Washington state just announced a demonstration bus on shoulder (BOS) project for the I-5 corridor. And, as you know, BOS service is identified as a key piece of the innovative I-680 solutions effort.

The Contra Costa Transportation Authority (CCTA) has placed seeking BOS authority for the I-680 corridor into its set of state legislative priorities for 2018. Moreover, CCTA staff and their Sacramento lobbyist believe some authority to run BOS in I680 may already exist.

Momentum state wide for this authority is growing. Further efforts to pass legislation clarifying this authority are likely in 2018. However, opposition from the California Highway Patrol (CHP) still exists and will have to be addressed.

Other Areas of State Interest

In 2018, we are likely to see legislation to further advance the use of autonomous shuttles in public and/or private transportation services. Currently only LAVTA has a limited ability to do so. Interest in this is picking up rapidly.

In the area of transit operator certifications and licensing, legislation is being worked on to restore the ability to certify and license transit operators by transit systems. This is allowed under federal law. But, the California Department of Motor Vehicles (DMV) has issued rules that essentially make it near impossible for anyone but the DMV to certify public transit operators. County Connection has performed this on its own in the past. Legislative efforts to make California consistent with federal regulations have been opposed by the DMV employee's union. Yet, the DMV has a six-month backlog in some areas of the state due to a lack of qualified employees.

Finally, there is growing interest in legislating transit fare discounts for youth, low income, veterans, and others. So far, most of those efforts have stalled, but they are likely to reappear in 2018.

ACTION REQUESTED

The MP&L Committee invites the board's feedback on the identified items prior to staff drafting a 2018 federal and/or state legislative program.