OCTA

AGENDA

Legislative and Communications Committee Meeting

Committee Members
Shawn Nelson, Chairman
Michael Hennessey, Vice Chairman
Laurie Davies
Barbara Delgleize
Al Murray
Tim Shaw
Gregory T. Winterbottom

Orange County Transportation Authority
Headquarters
550 South Main Street
Board Room – Conf. Room 07
Orange, California
Thursday, February 15, 2018 at 9:00 a.m.

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not indicate what action will be taken. The Committee may take any action which it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

All documents relative to the items referenced in this agenda are available for public inspection at www.octa.net or through the Clerk of the Board's office at the OCTA Headquarters, 600 South Main Street, Orange, California.

Call to Order

Pledge of Allegiance

Director Delgleize

1. Public Comments

Special Calendar

2. Conference Call with State Legislative Advocate Moira Topp

Moira Topp/Lance M. Larson

An update of legislative items in Sacramento will be provided.

3. Committee Meeting 2018 Schedule
Shawn Nelson, Committee Chairman

The Committee Chairman will lead a discussion regarding the 2018 meeting schedule for the Legislative and Communications Committee. The proposed dates and times for this Committee are provided in Attachment A.

4. Roles and Responsibilities of the Legislative and Communications Committee
Darrell Johnson, Chief Executive Officer

Roles and responsibilities for the Legislative and Communications Committee are reviewed periodically for any appropriate changes or additions. These roles and responsibilities are presented for discussion in Attachment A.

Consent Calendar (Item 5)

All items on the Consent Calendar are to be approved in one motion unless a Committee Member or a member of the public requests separate action or discussion on a specific item.

5. Approval of Minutes

Approval of the minutes of the Legislative and Communications meeting of November 16, 2017.

Regular Calendar

6. State Legislative Status Report
Kristin Essner/Lance M. Larson

Overview

An amendment is proposed to the Orange County Transportation Authority's 2017-18 State Legislative Platform to sponsor legislation related to disadvantaged communities. An update is provided on a state audit request to analyze fluctuations in transit funding. An overview is provided of a proposed regulatory framework to require the use of zero-emission buses. A summary is provided of the Legislative Analyst's Office report on the extension of the cap-and-trade program. A summary is provided on the cap-and-trade expenditure plan and the Governor's executive order on zero-emission vehicles. A verbal update will be provided on the Governor's fiscal year 2017-18 state budget.

6. (Continued)

Recommendation

Amend the 2017-18 Orange County Transportation Authority State Legislative Platform to sponsor legislation to clarify how a transportation project may provide benefits to disadvantaged communities.

7. Federal Legislative Status Report
Dustin Sifford/Lance M. Larson

Overview

Updates are provided on the recent federal funding bills, Orange County Transportation Authority's advocacy efforts on the OC Streetcar project, tax legislation signed into law in December 2017, the President's infrastructure proposal, and pending confirmations to the Department of Transportation. A summary of the United States Senate Environment and Public Works Subcommittee hearing on freight movement is provided.

Recommendation

Receive and file as an information item.

Discussion Items

8. Chief Executive Officer's Report

9. Committee Members' Reports

10. Closed Session

There are no Closed Session items scheduled.

11. Adjournment

The next regularly scheduled meeting of this Committee will be held at **9:00 a.m. on Thursday, March 15, 2018**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.

ATTACHMENT A

DRAFT

ORANGE COUNTY TRANSPORTATION AUTHORITY

2018 Legislative & Communications Committee Meetings

JANUARY

SUN	MON	TUE	WED	THU	FRI	SAT
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FEBRUARY

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MARCH

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JULY

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AUGUST

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OCTOBER

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DECEMBER

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9.6.17

OCTA, OCTD, OCLTA, and OCSAFE regular Board meeting
9:00 a.m., OCTA Headquarters
550 South Main Street, Board Room - Conf. Room 07, Orange CA

Legislative and Communications Committee
9:00 a.m.

OCTA Holidays

2018 OCTA Proposed Committee Meeting Calendar
Legislative and Communications Committee

Month	2018 Proposed Changes - Comparison with 2017 Calendar
January	No change
February	No change
March	No change
April	No change
May	No change
June	No change
July	No change
August	No change
September	No change
October	No change
November	No change
December	No change

ATTACHMENT A

Proposed Roles and Responsibilities of the Board Committees for 2018 (02.15.18)

Legislative and Communications Committee

- Recommends to the Board of Directors multi-level strategy and action plans for advancing priorities of OCTA at local, state, and federal levels of government;
- Reviews and makes recommendations to the Board of Directors for the annual legislative platforms and positions for legislative proposals;
- In coordination with the Chairman of the Board of Directors, advocates and testifies at the state and federal level on issues of importance to OCTA;
- Establishes relationships with legislative delegations at the state and federal levels;
- Makes recommendations to Board of Directors on use and procurement of professional services and contractors to support planning and delivery of OCTA projects, programs, and services;
- Interviews and recommends to the Board of Directors consultants to serve as legislative advocates in Sacramento and Washington, D.C.;
- Makes recommendations regarding annual state and federal funding requests;
- Provides guidance with public communication program goals, plans, and messages, and ensures they cultivate two-way communications with diverse communities, and are in compliance with Title VI and Environmental Justice requirements;
- Reviews and provides feedback on public communications, media relations, and community relations programs in support of OCTA initiatives;
- Reviews and provides feedback on marketing and customer relations programs that are designed to create awareness or promote usage of OCTA transportation services and programs; and
- Monitors public and customer feedback, as well as communications program results and recommend course corrections as appropriate.

Committee Members Present
Shawn Nelson, Chairman
Al Murray, Vice Chairman
Lisa A. Bartlett
Laurie Davies
Barbara Delgleize
Michael Hennessey
Tim Shaw
Gregory T. Winterbottom

Staff Present
Darrell Johnson, Chief Executive Officer
Ken Phipps, Deputy Chief Executive Officer
Laurena Weinert, Clerk of the Board
Sara Meisenheimer, Deputy Clerk of Board
Cassie Trapesonian, Associate General Counsel
OCTA Staff and members of the General Public

Committee Members Absent
None

Call to Order

The November 16, 2017 regular meeting of the Legislative and Communications Committee was called to order by Committee Vice Chairman Murray at 9:03 a.m.

Pledge of Allegiance

Director Davies led in the Pledge of Allegiance.

1. Public Comments

No public comments were received.

Special Calendar

2. Conference Call with State Legislative Advocate Moira Topp

Moira Topp, Sacramento Advocate, reported on the following:

- The Legislative Analyst's Office released its economic outlook, which reported a strong economy.
- Predictions of an additional California budget reserve at the close of the fiscal year 2018-19 budget.
- 2018 will be the final year for the Governor and it's predicted the State's budget will remain fiscally conservative.
- The Governors' office is thinking about closing out legacy items.
- Assembly Member Tom Daly sponsored an audit on sales tax issues and how it affects transit funding; the audit should be released by November 30th, 2017.
- 2018 will be an election year, which means fewer major policy items will be brought up during the legislative session.
- Continuation of implementation of Senate Bill (SB) 1 will be one of the main priorities for California.

2. (Continued)

- The homeless crisis is impacting California cities.
- Climate change continues to rank number one with legislative leadership and the Governor.
- The reactions to the Federal government actions will affect the California budget tax reform legislation.
- The politics of 2018 and who will be running for Governor of California.
- The sexual harassment issues and allegations will have an effect on some of the election races.
- The budget reserve could be used for the homelessness issues.

Director Davies requested for staff to monitor and report back regarding any potential federal funding impacts, due to recent correspondence by the United States Justice Department to specific cities that have declared sanctuary city status.

A discussed ensued regarding:

- Consideration of legislators pulling back on Assembly Bill 109, Proposition 57, and Proposition 47 and to reform those initiatives.
- The Governor making California High-Speed Rail a legacy item.

Consent Calendar (Item 3)

3. Approval of Minutes

A motion was made by Director Davies, seconded by Director Delgleize , and declared passed by those present, to approve the minutes of the September 21, 2017 meeting.

Committee Chairman Nelson was not present to vote on this item.

Regular Calendar

4. Orange County Transportation Authority 2017-18 State and Federal Legislative Platforms

Lance Larson, Executive Director of External Affairs, provided opening comments and introduced Dustin Sifford, Senior Government Relations Representative, who reported on the following:

- Minimal changes to the State and Federal Legislative Platforms are as follows:
    - For the State Platform: updated language to the cap-and-trade section based on what the Legislature passed and the definition of disadvantaged communities was moved to the transportation section.
    - For the Federal Platform changes: timing regulations to the Congestion Mitigation Air Quality and the language requested by Committee Chairman Nelson on the Highway Trust Fund fix.

A discussion ensured regarding:

- The future of Assembly Bill 1069 and how the Orange County Transportation Authority (OCTA) will start meeting with cities and the Orange County Taxi Administration Program (OCTAP) on what may be possible under the new legislation.
- The Orange County City Managers' Association developed an Ad-Hoc Committee to take the lead on informing every City Manager on the OCTAP refinements.

A motion was made by Committee Vice Chairman Murray, seconded by Director Davies, and declared passed by those present, to:

A. Adopt the revised 2017-18 State and Federal Legislative Platforms.

B. Direct staff to distribute the adopted platforms to elected officials advisory committees, local governments, affected agencies, the business community, and other interested parties.

5. Status Report of State Legislation Enacted in 2017

Lance Larson, Executive Director of External Affairs, provided opening comments and introduced Kristin Essner, Manager of State and Federal Relations and Jaymal Patel, Associate Government Relations Representative, who reported on the following:

- A summary of the bills the Governor signed and vetoed this year.

5. (Continued)

- The Governor signed 95 bills which are included in the end of the year report in Attachment A of the Staff Report.
- Of the bills that OCTA took a position on, OCTA opposed Assembly Bill (AB) 805, which was signed by the Governor.
- A description of AB 805 and how it changes the voting and governance structure of the San Diego Association of Governments (SANDAG).
- AB 805 adds new requirements into how SANDAG funds projects and changes the taxing authority in San Diego County.
- The Governor signed bills OCTA took positions on, including: Assembly Bill 28, Assembly Bill 1069, and Assembly Bill 179.
- Various bills held over as two-year bills including: dealing with public-private partnership expansion, zero emission bus requirements, and requirements for tolling evasion penalties.

Following the discussion, no action was taken on this receive and file as an information item.

6. Performance Evaluation of Sacramento Legislative Advocate, Platinum Advisors, LLC

Lance Larson, Executive Director of External Affairs, provided opening comments and Kristin Essner, Manager of State and Federal Relations, reported on the following:

- Staff has rated Platinum Advisors, LLC's (Platinum) performance as "excellent."
- Major issues completed by Platinum included: securing the authorship of Assembly Member Tom Daly on the audit request and a co-authorship with Assembly Member Todd Gloria.
- Platinum was able to secure language with SB 1 and amendments with several bills.
- Many bills OCTA opposed were able to be turned into two-year bills.
- OCTA anticipates significant issues next year with SB 1 implementation, the expenditure plan associated with cap-and-trade revenues, and any needed legislation related to the outcome of the audit request.

No action was taken on this item.

Discussion Items

7. Federal Tax Reform Proposals

Darrell Johnson, Chief Executive Officer (CEO), provided opening comments and Dustin Sifford, Senior Government Relations Representative, provided a PowerPoint presentation for this item as follows:

- Background;
- Challenges Going Forward;
- Deficit Effects of Each Proposal; and
- Provisions Potentially Affecting OCTA.

A short discussion ensued regarding:

- Repatriation and previous attempts to create a fund for transportation.
- Staff will continue to monitor the House and Senate bills.
- The money not being used for transportation projects, the federal government will invest it in whatever they prefer.

No action was taken on this discussion item.

8. Chief Executive Officer's Report

Darrell Johnson, CEO, reported on the following:

- At the Monday, November 27th Board of Directors' (Board) meeting, staff will request approval to release the invitation for bids for construction of the OC Streetcar project.
- After the November 27th Board meeting, Committee Chairman Nelson, Chairman Hennessey, Mr. Johnson, and Lance Larson, Executive Director of External Affairs, will depart to Washington, D.C. to meet with the Federal Transit Administration officials to discuss the Full Funding Grant Agreement for the OC Streetcar project, as well as the Orange County delegation.
- The Interstate 405 Improvement Project, from the Interstate 5 to the State Route 55, which is Project L in the Measure M2, is in the environmental public review phase. Comments can be submitted by Friday, December 15th. In addition, OCTA will host an open house at the University Community Park in the City of Irvine on Tuesday, December 5th, from 5:00 p.m. to 8:00 p.m.
- Mr. Johnson wished everyone a Happy Thanksgiving.
- Mr. Johnson highlighted the timelines for the OC Streetcar Project.

9. Committee Members' Reports

Director Bartlett inquired about the connection between the homelessness population and transportation.

Director Bartlett also referenced the November 16, 2017 Legislative and Communications meeting (Item 4 of the Staff Report) and stated that the County of Orange has been receiving numerous public comments in regards to the proposed State Route 241/91 Express Lanes Tolled Connector and asked that staff review the polling results in favor of enhancing regional mobility.

Darrell Johnson, CEO, responded that OCTA has also been receiving many emails in regards to the same subject. He stated that OCTA's goal is to ensure the Board of Directors' are notified about those emails and at this time, there are no thoughts as to what they mean.

Committee Chairman Nelson commented on the Transportation Corridor Agencies' (TCA) mission, how it will overlap with OCTA, and the criticism TCA has been receiving. Director Bartlett responded that she has pushed the TCA to be more open and collaborative with the stakeholder groups and to make sure all projects work in conjunction with other agencies.

10. Closed Session

There were no Closed Session items scheduled.

11. Adjournment

The meeting adjourned at 9:56 a.m.

The next regularly scheduled meeting of this Committee will be held at **9:00 a.m. on Thursday, December 21, 2017**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.

ATTEST

Sahara Meisenheimer
Deputy Clerk of the Board

Shawn Nelson
Committee Chairman

OCTA

February 15, 2018

To: Legislative and Communications Committee

From: Darrell Johnson, Chief Executive Officer

Subject: State Legislative Status Report

Overview

An amendment is proposed to the Orange County Transportation Authority's 2017-18 State Legislative Platform to sponsor legislation related to disadvantaged communities. An update is provided on a state audit request to analyze fluctuations in transit funding. An overview is provided of a proposed regulatory framework to require the use of zero-emission buses. A summary is provided of the Legislative Analyst's Office report on the extension of the cap-and-trade program. A summary is provided on the cap-and-trade expenditure plan and the Governor's executive order on zero-emission vehicles. A verbal update will be provided on the Governor's fiscal year 2017-18 state budget.

Recommendation

Amend the 2017-18 Orange County Transportation Authority State Legislative Platform to sponsor legislation to clarify how a transportation project may provide benefits to disadvantaged communities.

Discussion

Sponsor Legislation to Clarify Disadvantaged Community Benefits from Transportation Projects

The cap-and-trade program is one of the key policies the California Air Resources Board (ARB) has implemented to meet the greenhouse reduction requirements outlined under AB 32 (Chapter 488, Statutes of 2006) and SB 32 (Chapter 249, Statutes of 2016). Last year the Legislature created increased legal certainty as it relates to the program through the passage of AB 398 (Chapter 135, Statutes of 2017), which extends the authority to implement the cap-and-trade program through 2030. With the enactment of this legislation, it is expected that the revenues generated from the cap-and-trade program will generate anywhere from $2 billion to $7 billion annually through 2030.

Each year, 60 percent of these revenues are dedicated to ongoing appropriations, including five percent annually for the Low Carbon Transit Operations Program (LCTOP), ten percent annually for the Transit and Intercity Rail Capital Program, and 20 percent annually to the Affordable Housing and Sustainable Communities Program. While transit, rail, and other types of transportation projects may qualify for each of these programs, only LCTOP is allocated by formula, while the other programs are competitive grants. LCTOP is allocated pursuant to the State Transit Assistance Formula, with Orange County Transportation Authority (OCTA) receiving about 5.4 percent of the total funding provided each year, based on farebox revenues and population. In the Governor's proposed fiscal year 2018-19 state budget, it is estimated that OCTA will receive about $9.7 million.

Each cap-and-trade funded program must meet specific targets of investment for the benefit of disadvantaged communities (DAC), as defined using the California Environmental Protection Agency's (CalEPA) California Communities Environmental Health Screening Tool (CalEnviroScreen). This tool utilizes a multitude of factors including demographics, health vulnerability, socioeconomic factors, air pollution, pesticide use, water quality, and toxic releases from facilities. Using this tool, CalEPA then identifies census tracts throughout the State that score highest when combining each of these factors. Overall, in the latest version of CalEnviroScreen, Orange County has 69 census tracts within the top 25 percent of DACs, a drop of 17 census tracts from the previous version of the tool. Because census tracts are very small in nature, the vast majority of Orange County is not considered to be a DAC. This further limits where OCTA can use cap-and-trade funding for transportation projects.

The development of CalEnviroScreen was required as a result of the passage of SB 535 (Chapter 830, Statutes of 2012), which first required that a percentage of cap-and-trade funding be used for the benefit of DACs. Later, AB 1550 (Chapter 369, Statutes of 2016) added requirements related to the investment for the benefit of low-income communities, and further limited investments deemed beneficial for DACs to only include investments in projects that are located within a DAC. AB 1550 removed the ability to show a benefit to a DAC by investing in an area surrounding a DAC. The CalEnviroScreen tool requires a statewide definition of a DAC to be used, regardless of whether the tool's criteria is present in each region or if the thresholds vary between regions. This may prevent an investment in what a region may define as its most disadvantaged areas.

Because of the DAC requirements, OCTA has been limited in how it utilizes cap-and-trade funding, including that received for the LCTOP. For the LCTOP formula funds, OCTA has directed most of the funds to transit fare subsidies. Most recently, funding was used for the Santa Ana College Transit Pass Program. In order to fund this program, OCTA was required to demonstrate that at least 50 percent of the students utilizing this program reside in an area considered a DAC, the threshold statutorily required for LCTOP funding. This threshold was barely met even though the college is surrounded by DACs. When analyzing other colleges within Orange County, there are currently no other institutions that would meet this requirement. This is despite the actual income level of the students or financial aid assistance received. If one of the primary drivers of cap-and-trade funding is to boost transit ridership and reduce emissions, the student pass programs can be very effective in allowing for mode shift and attracting new riders. For instance, the survey recently completed for the Santa Ana College Transit Pass Program showed that 88 percent of the students have not used parking on campus since the creation of the pass program. However, the DAC requirements limit the opportunities for such investment. With LCTOP funding expected to grow in future years, this presents an increased challenge for OCTA and other transit agencies.

OCTA also would be limited in funding other transit services that connect DAC residents to major employment centers, educational institutions or healthcare centers, unless the service actually occurs within a DAC. Because most residents of DACs do not stay within their census tract, this presents numerous disadvantages to projects funded by LCTOP and other cap-and-trade programs in meeting the intent to provide residents of DACs transit connectivity benefits. The restrictions the DAC investment requirements present are common issues for many areas of the state, including San Diego, the Bay Area, and the Central Coast area. The topic has been raised numerous times through discussions with the California Transit Association (CTA).

By sponsoring legislation to allow flexibility in the use of cap-and-trade funding for transportation purposes, OCTA can seek opportunities to not only provide additional connectivity options for residents of DACs, but also further reduce emissions. This can include investment in new student transit pass programs; transit connectivity to major centers of employment, healthcare and education; and zero-emission technology. Staff is therefore recommending that the OCTA 2017-18 State Legislative Platform be amended to include the following sponsor legislation principle:

"Sponsor legislation to increase the flexibility in meeting disadvantaged community investment requirements to allow eligibility for projects that improve transit connectivity options."

Initial conversations related to the potential for such legislation have already occurred with Orange County delegation members, CTA, and environmental justice groups. OCTA staff will provide a verbal update of those conversations at the February 15, 2018, OCTA Legislative and Communications Committee meeting.

State Auditor Report Findings on the Local Transportation Fund

Per the direction of the OCTA Board of Directors, and articulated in the 2017-18 State Legislative Platform, on March 3, 2017, Assembly Member Tom Daly (D-Anaheim) and Assembly Member Todd Gloria (D-San Diego) authored a request to the Joint Legislative Audit Committee for the State Auditor to analyze the distribution and assessment of the Local Transportation Fund (LTF), which is imposed under the Bradley-Burns tax as part of the Transportation Development Act. OCTA sought the audit request after observing that the growth rates for LTF revenues, which have historically funded about 50 percent of OCTA's bus operations, were not keeping pace with local transportation sales taxes such as Measure M in Orange County. Since these taxes are assessed differently, it was believed that an increase in internet sales, and potentially other exclusions, could be impacting these rates. Specifically, the audit request asked the State Auditor to analyze the impact the point-of-sale determination for internet sales is having on LTF revenues and how various exemptions and exclusions may be impacting the fund source. The audit request was unanimously approved by the Joint Legislative Audit Committee on March 29, 2017.

On November 30, 2017, the State Auditor released an audit on "The Bradley-Burns Tax and Local Transportation Funds." An official summary of this audit is included as Attachment A. Overall, the audit found the LTF revenue statewide has been steadily increasing, but that some counties disproportionately benefit because of existing state law, with counties who have more warehouses or distribution centers receiving more revenue. The audit's primary finding is that changing the allocation structure for Bradley-Burns taxes would result in a more equitable distribution of local transportation funding, primarily due to the "point-of-sale" assessment structure and the impact from an increase in internet sales. The audit recommends that the state amend the Bradley-Burns tax law to allocate revenues from internet sales the same way they are allocated for local measures, such as Measure M, which is based on the destination of sold goods rather than their place of sale. The findings of the audit predict that, without a change in the law, the current inequities will only grow going forward due to the projected increase in e-commerce. The audit also makes several other recommendations to help increase LTF revenue and ensure compliance with existing law, including the following:

- The Legislature should routinely review and evaluate tax exemptions and other expenditures, eliminating those that are outdated or ineffective. With 160 existing exemptions and exclusions, the audit notes that about $22.5 billion in potential statewide revenue could be put to use. As part of this effort, the audit also recommends that the Franchise Tax Board and Department of Finance should include in their annual report on tax expenditures, the estimated costs of those expenditures before implementation, compared to actual forgone revenues to date.

- Increase the tax base by taxing digital goods and taxing services. The report notes that existing state law is not clear as to whether digital goods are exempted. If it were to be interpreted that they were not exempted, this would produce a minor tax revenue boost. However, the biggest impact to tax revenues would be to tax services, which would result in an extra $3.5 billion in LTF revenue annually statewide.

- In order to increase compliance with existing laws, the California Department of Tax and Fee Administration (Tax Administration) should develop a pilot program to determine the cost-effectiveness of providing monetary incentives to individuals who provide information about businesses with unpaid sales and use tax liabilities.

Many of the recommendations from the State Auditor would require a two-thirds vote due to their classification as a tax increase, including efforts to tax digital goods and services, or remove existing tax exemptions. Other recommendations would require funding being appropriated by the annual state budget, including the recommendation for the Tax Administration to develop a pilot program to report businesses who have unpaid sales and use tax liabilities.

In regards to the State Auditor's primary recommendation to change the situs determination for the assessment of Bradley-Burns tax revenue, this may prove very controversial in some parts of the state that stand to lose revenue. If looking at Bradley-Burns as a whole, this would include revenues for not only the LTF, but also the one percent Bradley-Burns directed to local governments. Currently, it is unclear which cities and counties would benefit or lose by a change in the rules, creating the potential for strong opposition which could handicap a legislative effort.

Potentially, a legislative change could be solely focused on LTF revenues, removing some potential opposition and controversy from local government. However, in discussing the results of the state audit on LTF revenues, the State Auditor noted that in producing the report, they only reviewed data from six different counties and could not produce results for all 58 counties due to strict confidentiality rules associated with this data. In order to assess the viability of a legislative option, more data would be needed to determine which counties could benefit from a change in law. OCTA staff is therefore seeking methods to obtain more information about the other 52 counties. This can be done through two avenues, including providing information to individual counties on how they can obtain the data for their jurisdiction and attempting to seek this information through the Legislative Analyst's Office. Staff will provide updates to the OCTA Board of Directors as different options are analyzed and pursued, including the potential for legislation to be pursued.

Innovative Clean Transit Regulatory Proposal

In 2000, the ARB first issued the fleet rules for transit agencies, mandating large transit agencies with over 200 buses to reduce overall nitrous oxides (NOx) and particulate matter (PM) emissions based on two different fuel paths: the alternative fuel path or the diesel fuel path. Those agencies choosing the alternative fuel path were required to begin converting their fleets to non-diesel fuels, including natural gas, hybrid, hydrogen, or electric, while also reducing overall NOx and PM emissions. Those on the diesel fuel path were not required to purchase alternative fueled buses, but were subject to more accelerated NOx and PM emission reduction standards and were subject to implementation of zero-emission bus (ZEB) pilot programs. In the Southern California region, the South Coast Air Quality Management District opted to have all transit agencies within their jurisdiction proceed under the alternative fuel path, including OCTA.

Also put in place under the initial ARB regulations was a purchase requirement for ZEBs, which mandated those transit agencies following the alternative fuel path to have 15 percent of their purchase and lease agreements be ZEB starting in 2012. This same requirement applied to those agencies opting for the diesel fuel path starting in 2011. However, in July 2009, the ARB deferred the ZEB purchase requirement with a recommendation to first establish technology performance metrics that could be used to assess the commercial readiness and trigger a future purchase requirement. This deferral largely resulted from the advocacy of CTA and its member agencies, including OCTA, who pointed to the lack of technological readiness in broader use, and no identified funding resources at a time where transit agencies were already taking action to cut services and increase fares due to state funding cuts.

Since that time, discussions have continued between ARB staff, transit agencies, technology manufacturers, and other stakeholders regarding the appropriate metrics and path forward that would provide broader integration of ZEBs. Working with the CTA, OCTA and other transit agencies have advocated for a performance-based approach which focuses on actual emission reductions, while also considering funding availability, cost efficiency, and the potential for further technology demonstrations. This approach would also clearly allow for transit agencies to opt out of any requirements due to financial hardship, or if the technology was not performing as needed. While previously ARB staff entertained the potential for a performance-based approach, they have recently moved towards a more aggressive ZEB purchase requirement.

In December 2017, ARB released the Innovative Clean Transit (ICT) Regulation Discussion Document. The ICT proposal seeks to impose an expedited ZEB purchase requirement on all transit agencies within the state, with the goal of achieving fully zero-emission fleets by 2040. Attachment B includes an outline of the requirements proposed under the ICT. While previous iterations of a ZEB purchase requirement were limited to larger urban buses, the ICT would apply to all transit buses, including those used for paratransit service. The regulation would also no longer be limited to transit agencies with 200 buses and over, instead applying to smaller fleets as well. Under the proposed ICT regulation discussion draft, transit agencies would be required to do the following:

- Abide by an accelerating ZEB purchase requirement which takes effect in 2020 for larger fleets with over 100 buses, requiring 25 percent of any bus purchase be ZEB. By 2029, a 100 percent purchase requirement would apply to all fleets.
- Large transit agencies with 100 or more buses would be required to purchase renewable fuels when diesel or natural gas contracts are renewed.
- Include low NOx engines when new bus purchases are made, if available in areas that do not meet federal NOx air quality standards.

While provisions are provided for off-ramps, where an agency can request a one-year extension for compliance, there is not an option for a transit agency to put compliance on hold if the requirements would lead to a reduction in service or other extreme financial hardship, or if funding reductions occur or funding for the increased costs associated with ZEBs is not identified. In addition, while the discussion draft acknowledges the potential for a future performance based option, this is not to occur until after the requirements are already in effect.

OCTA has made significant steps towards the integration of new technology within its transit fleet, including the purchase of ten hydrogen buses and associated fueling infrastructure, addition of low NOx engines on over 100 buses by the end of 2018, and conversion to renewable natural gas for the entire active fixed-route fleet. In addition, OCTA has recently sought funding opportunities to integrate battery electric buses into its fleet, seeking additional methods to test the technology and determine its appropriate use within OCTA's transit system. Despite this progress, the ICT seeks to accelerate the adoption of this technology beyond what is currently in use.

If the ARB adopts the ICT, it would create extreme financial implications for OCTA's transit system. It is currently expected that OCTA will proceed with its next large transit bus procurement after 2020, subjecting the procurement to the new purchase requirements. It is expected that almost 300 buses will be procured at that time. If the ZEB purchase requirement is in place, this could increase procurement costs by as much as $114 million. Overall, to replace our entire fleet with ZEBs, including paratransit, it would cost at least an additional $442 million in current dollars. These estimates assume that there would need to be an expansion of the fleet due to range limitations with existing ZEBs; however, these estimates do not include the costs of infrastructure and potential for increased fueling costs. This would significantly impact OCTA's ability to maintain existing services and could translate to a service reduction of over 20 percent if the additional funding were not identified. Furthermore, there are several technology challenges that continue to exist for these buses, including the inability to meet existing transit bus range requirements, lack of commercially available ZEBs to replace paratransit vehicles, and no guarantee that existing technology will meet necessary warranties to fulfill federal useful life requirements.

OCTA is currently working with the CTA and other transit stakeholders to respond to the ICT proposal, noting the inaccuracies included in the proposal and impacts to transit systems if enacted. OCTA's comments on the ICT proposal are included as Attachment C. Throughout this process, comments will continue to:

- Emphasize the need for additional capital and operating funding to implement any new technology commensurate with the increased costs, and the technology challenges which could impact service
- Detail the implications on transit service and ridership if implemented as proposed, and the associated vehicle miles traveled and disadvantaged community impacts.
- The need for technological advancement to meet the range and reliability requirements of existing transit systems.
- Potential conflicts with bus axle weight limitations.

ARB staff currently plan on holding workshops through the remainder of Winter and Spring 2018, with the goal of a formal regulation going for approval in Summer 2018. Staff will provide updates as discussions continue, including potential alternative pathways that may be considered.

Legislative Analyst's Office Report on the Extension of Cap-and-Trade

On December 12, 2017, the Legislative Analyst's Office (LAO) released a report entitled, "Cap-and-Trade Extension: Issues for Legislative Oversight." The report was written in response to the passage of AB 398, which extended the cap-and-trade program from 2020 to 2030, to help the state achieve its goal of reducing greenhouse gas (GHG) emissions to 40 percent below 1990 levels by 2030. The report identifies five key implementation decisions for the Legislature to evaluate to ensure consistency with legislative goals and priorities, such as: setting post-2020 caps and banking rules to ensure the state meets its GHG targets, setting a hard price ceiling at a level that balances emissions and costs, setting price containment points to moderate price increases, implementing new offset limits, and determining industry assistance factors through 2020.

In addition, the LAO report also finds that the amount of revenue that will be generated from the extension of cap-and-trade is highly uncertain. The range of future revenues could vary by billions of dollars under different assumptions about future allowance prices. The revenues could range from $2 billion to $4 billion in 2018 and from $2 billion to almost $7 billion in 2030. It is expected that one of the priority policy areas the Legislature will address this year will be how to allocate future revenues, with only 60 percent of existing revenues dedicated to ongoing expenditures. Staff will continue to provide updates as these discussions continue.

Cap-and-Trade Expenditure Plan and the Governor's Executive Order on Zero-Emission Vehicles

On January 26, 2018, the Governor released a cap-and-trade expenditure plan for Fiscal Year 2018-2019. The $1.25 billion dollar expenditure plan provides investments in renewable energy, transit-oriented development, environmental restoration, sustainable agriculture, and zero-emission trucks, buses, and vehicles. Specifically, the expenditure plan includes $160 million to the ARB to provide incentives for clean trucks, buses, and off-road equipment, which will also be available for the Carl Moyer Program. The expenditure plan represents the 40 percent of cap-and-trade revenues available for appropriation on an annual basis.

In addition, on January 26, 2018, the Governor issued Executive Order B-48-18, to increase the supply of zero-emission vehicles and charging stations in California. The executive order calls for a new target of five million zero-emission vehicles in California by 2030. The Administration is also proposing a new eight-year $2.5 billion initiative to help bring 250,000 vehicle charging stations and 200,000 hydrogen fueling stations to California by 2025.

Summary

A sponsor bill is recommended related to disadvantaged communities. Updates are provided on State Auditor findings related to local transit funding and a proposed regulation related to zero-emission buses. An overview is provided on a Legislative Analyst's Office report on the cap-and-trade program, the cap-and-trade expenditure plan and an executive order related to zero-emission vehicles. A verbal update will be provided on the Governor's proposed state budget.

Attachments

A. Fact Sheet: The Bradley-Burns Tax and Local Transportation Funds
B. California Air Resources Board: Innovative Clean Transit Regulation Summary
C. Orange County Transportation Authority Comment Letter on the Innovative Clean Transit Regulation Discussion Document to California Air Resources Board Chair Mary Nichols, dated January 22, 2018
D. Orange County Transportation Authority Legislative Matrix

Prepared by:

Kristin Essner

Kristin Essner
Manager, State and Federal Relations
External Affairs
(714) 560-5754

Approved by:

Lance M Larson

Lance M. Larson
Executive Director,
External Affairs
(714) 560-5908

ATTACHMENT A

COMMITMENT
INTEGRITY
LEADERSHIP

November 30, 2017
Report 2017-106

FACT SHEET

Elaine M. Howle *State Auditor*

CONTACT: *Margarita Fernández | (916) 445-0255 x 343 | MargaritaF@auditor.ca.gov*

The Bradley-Burns Tax and Local Transportation Funds

Changing the Allocation Structure for the Bradley-Burns Tax Would Result in a More Equitable Distribution of Local Transportation Funding

Background

The California Department of Tax and Fee Administration (Tax Administration)—formerly part of the State Board of Equalization—administers the statewide general tax on the retail sale or use of merchandise or goods within the State. Subject to a number of exceptions, such as food for home consumption, California imposes sales and use taxes on the purchase price of tangible goods. Retailers owe sales taxes, while buyers owe use taxes for certain tangible goods not otherwise subject to the retail sales tax (e.g. Internet purchases from out-of-state retailers). Tax Administration also collects the Bradley-Burns tax on behalf of cities and counties and distributes the revenue to those local governments. The Bradley-Burns tax imposes a statewide rate of 1.25 percent, of which 1 percent is allocated to counties or incorporated cities to use at their discretion and the remainder is distributed to county local transportation funds (LTFs) to support transportation programs.

Our Key Recommendations

- The Legislature should do the following:
  - » Amend the Bradley-Burns tax to allocate revenues from Internet sales based on the destination of sold goods rather than their place of sale.
  - » Increase budgetary control and ensure it has the information needed for decision-making by regularly reviewing and evaluating tax exemptions and exclusions to sales and use taxes.
  - » Increase the tax bases for general sales and use taxes by amending state law to specify that digital goods are taxable.
- Tax Administration should help address the e-commerce tax gap and ensure out-of-state retailers comply with state tax laws by implementing a two-year pilot of its authorized reward program for information identifying unreported sales and use taxes.

Key Findings

- Although Tax Administration has adequately administered the Bradley-Burns tax and the tax revenue that county LTFs receive has steadily increased over the past five years, some counties may benefit disproportionately from the Bradley-Burns tax.
  - » Retailers generally allocate the Bradley-Burns tax revenue based on the place of sale, which they identify according to their business structure, even if they ship goods to other destinations.
  - » Retailers that make sales over the Internet (e-commerce) may identify the place of sale as one of their warehouses or sales offices rather than where they ship the goods to and thus, counties with more warehouses or offices may receive more Bradley-Burns and LTF revenue.
- E-commerce has contributed to California's tax gap—Tax Administration estimated that the State lost nearly $1.5 billion in revenue due to unpaid taxes on e-commerce purchases.
  - » Retailers that have a connection with the State must remit sales taxes on applicable sales, but those that do not are not required to even if they sell goods to Californians.
  - » Buyers must pay use tax on purchases from retailers that do not remit sales taxes to California, but may not be aware they owe these taxes.
- There are 160 exemptions and exclusions to the State's general sales and use taxes, collectively estimated to be worth more than $22.5 billion annually, yet there is no process to regularly evaluate them to determine if they are effective and should continue.
- The State currently does not tax digital goods or services, which could yield more than $100 billion in additional tax revenue.

California Air Resources Board: Innovative Clean Transit Regulation Summary

Applicability: All transit agencies that own, lease or operate buses with a gross vehicle weight rating over 14,000 lbs. Buses subject to the regulation include cutaway buses, transit buses (including bus rapid transit), articulated buses, commuter coaches, double-deckers, trolley buses and vintage trolley buses. Fleet size based on 2019 fleets. *** May be expanded to include non-bus modes, including vans and cars.*

Purchase Requirement:

January 1, 2020: Large fleets with over 100 buses would need to purchase **25 percent** zero-emission buses (ZEB) when bus purchase made or implement an equivalent innovative zero-emission mobility program

2022: Informational update to assess zero emission technology, fleet experiences, costs and to evaluate the regulatory structure for achieving mobility improvements and a complete transition to zero emission technology.

January 1, 2023: Medium size fleets (more than 30 buses) and Large Fleets would have to meet a **50 percent** purchase requirement.

January 1, 2026: All transit fleets, would need to meet a **75 percent** purchase requirement.

January 1, 2029: **100 percent** purchase requirement for all fleets.

Renewable Fuel Requirements:

Large transit agencies with 100 or more transit buses required to purchase renewable fuels when diesel or natural gas contracts are renewed. *** Emission credits are counted under Low Carbon Fuel Standard.*

Low-NOx Engine Purchase Requirement:

All transit agencies are required to include low nitric oxide (NOx) engines when purchases are made if available for the bus type purchased (notes that they are currently not available for diesel or gasoline buses).

- Early action credit for low NOx engines purchased previous to the requirement.
- Only applies to areas that do not meet federal NOx requirements.

*** California Air Resources Board (ARB) plans on doing a low NOx engine regulation for all heavy duty engines in 2019, which will apply to 2023 engines and later.*

Purchase Requirement Early Action Credits:

Early actions would allow for a 1:1 credit for future purchase requirements if the bus is put in service between January 1, 2018 and January 1, 2023. If put in service prior to December 1, 2017, and still in operation as of January 1, 2018, there would be a 1:1 credit for electric battery buses and a 2:1 credit for fuel cell electric buses.

Joint ZEB Compliance Option:

Multiple transit agencies can petition the ARB Executive Director to implement a joint ZEB deployment within a region, where they would comply as if they were one joint agency, submitting one annual report. To do this, the agencies would have to jointly comply with the number of ZEB purchases the partners would otherwise have to purchase individually, which they could jointly fund through a common MPO or other transportation policy-making organization. Various other requirements must be met, including operating buses with intent to meet FTA useful life requirements, providing appropriate maintenance and storage facilities, and demonstrating how deployment benefits disadvantaged communities.

Innovative Zero-Emission Mobility Option:

Innovative zero-emission mobility options include non-bus (or fixed guideway) transportation services provided by the transit agency with lighter zero-emission vehicles like micro transit, on-demand van or car transportation, or autonomous shuttle services.

If implementing such service, transit agency can apply to ARB Executive Officer for credit towards purchase requirement. In the application, it will have to identify the how the miles and passenger count will be measured. Credit will be applied such that 350,000 zero emission passenger miles per year from the program would be equivalent to purchasing one ZEB.

Off-Ramps:

ARB Executive Officer can provide a 1-year extension based on specific situations. These include:

- If delay occurs because utility cannot supply sufficient power to put the battery electric bus in service when they are delivered.
- Delay for reasons outside transit agency's control that would not allow a fuel cell electric bus to be put in service when delivered. This includes delays to hydrogen fueling station construction.
- When the equivalent ZEB has not completed Altoona testing. Only applies if the transit agency has no other purchase option.
- If the ZEB fleet expansion cannot be completed in compliance with local permitting requirements or safety requirements that could not have been foreseen and addressed prior.

No off-ramps are offered for:

- Requirements that would lead to a reduction in service or other extreme hardship.
- Funding reductions, such as if SB 1 (Chapter 5, Statutes of 2017) is repealed.
- Because a bus cannot meet necessary range requirements.
- Because of space constraints for necessary charging equipment.

Note: regulation specifies that transit agency is not out of compliance due to manufacturer delays.

Reporting Requirements:

Starting in 2020, each transit agency will be required to annually report information for all modes they operate dating back to 2015 as the proposed baseline year. This information will be used to determine whether the regulation should be expanded to include non-bus modes, whether zero-emission miles or another metric should be used for compliance or whether the zero-emission mobility option should be expanded.

Potential Performance Based Option (future discussion):

Discusses the potential for a zero-emission-miles-based fleet-wide approach to set a performance goal that can be used in lieu of the bus purchase mandate. This will include all modes from bicycles to light rail. The potential for this path will be informed by the annual reports received from transit agencies.

ATTACHMENT C

OCTA

January 22, 2017

Ms. Mary Nichols
Chairman
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Subject: **Comments on Innovative Clean Transit Regulation Discussion Document**

Dear Chairman Nichols:

The Orange County Transportation Authority (OCTA) Board of Directors appreciates the opportunity to offer comments on the California Air Resources Board's (ARB) Innovative Clean Transit Regulation Discussion Document (ICT Proposal), dated December 15, 2017. Since the postponement of the initial zero-emission bus purchase requirement in 2009, OCTA has taken significant steps to integrate new technology within its fleet in an economically sustainable manner, while also allowing for emission reductions and the testing of new technology. This includes obtaining over ten hydrogen fuel cell buses, exclusive use renewable natural gas for the existing fleet, and integration of low nitrogen oxide (NOx) engines, with about 20 percent of the fleet utilizing near-zero emission engines. These actions are over and above the significant emission reductions achieved when OCTA initially converted its fleet to natural gas. Transit agencies throughout the state are taking similar steps towards the integration of new technology. OCTA is therefore hopeful that through collaboration between the ARB and transit agency stakeholders, revisions can be formulated which allow the rule to be implemented in a fashion that is economically feasible, and allows for dependable technology to be developed.

The current ICT Proposal seeks to enact several new requirements which could jeopardize not only existing transit service levels, but present challenges in meeting fleet operating needs. These implications directly contradict the ARB's goals in pursuing the ICT, namely improving transit service and reducing emissions. The comments included on the attached document should be considered as revisions are made to the ICT Proposal.

OCTA appreciates the time and effort ARB staff has taken to meet with all transit agencies statewide to discuss the ICT proposal. Going forward, OCTA hopes to continue discussions with the ARB and develop collaborative solutions that will help reduce emissions and improve transit service statewide. As previously

Orange County Transportation Authority
550 South Main Street / P.O. Box 14184 / Orange / California 92863-1584 / (714) 560-OCTA (6282)

discussed, this could include efforts to create a performance-based standard, similar to what was proposed by the California Transit Association. If you or your staff have any questions regarding OCTA's comments, please contact Kristin Essner, Manager of State and Federal Relations, at (714) 560-5754 or kessner@octa.net.

Sincerely,

Darrell Johnson
Chief Executive Officer

DJ:ke
Attachment

c: Members, California Air Resources Board
Richard Corey, Executive Officer, California Air Resources Board
Steve Cliff, Deputy Executive Office, California Air Resources Board
Jack Kitowski, Chief, Mobile Source Control Division, California Air Resources Board
Shirin Barfjani, Air Pollution Specialist, Mobile Source Control Division, California Air Resources Board
Yachun Chow, Manager, Zero Emission Bus Truck and Bus Section, California Air Resources Board
Platinum Advisors

Orange County Transportation Authority Comments on the California Air Resources Board's Innovative Clean Transit Regulation Discussion Document

1. Funding is not identified to bridge the gap between existing technology and zero-emission buses, which could directly impact existing transit service.

The Innovative Clean Transit Regulation Discussion Document (ICT Proposal) would create a new unfunded mandate for transit agencies, without the identification of sufficient resources to compensate for the increased costs that would be needed to implement the proposed purchase requirement. For the Orange County Transportation Authority (OCTA), it is estimated that it would cost an additional $442 million, at current cost estimates, to convert its fleet to zero-emission technology. This does not include other costs for new fueling infrastructure or increased fuel costs. This estimate assumes not only the cost differential between existing compressed natural gas (CNG) buses, but also the need to increase the fleet size to integrate zero-emission buses (ZEB). OCTA's buses must meet a 300 mile range. Replacing a CNG bus with a ZEB is not a straight one-to-one comparison. Instead, because ZEBs cannot meet existing fleet range requirements, transit agencies will have to expand their fleet to comply with the purchase requirement and maintain existing service.

Already, OCTA has budgeted funding from existing sources, including the Transportation Development Act, State Transit Assistance, cap-and-trade, SB 1 (Chapter 5, Statutes of 2017) and federal transit sources, to maintain existing service levels. Any requirement put in place by the ICT Proposal would have to identify new funding sources, beyond those identified, to bridge the funding gap. Otherwise, transit agencies like OCTA would have to analyze potential service reductions. In order to meet the $442 million funding gap, OCTA would have to look at reducing service by more than 20 percent; a level surpassing what was done during the last recession. This would not only immediately impact the most transit dependent areas of the state, but may also lead to an increase in vehicle miles travelled, which is counter-productive to other California Air Resources Board (ARB) environmental initiatives.

Most of the funding sources the ARB does identify in the ICT Proposal are either one-time funding pots or have not yet been identified as eligible for ZEB purchases. Furthermore, ARB has stated many of these sources cannot be used once the purchase requirement is enforced. It is unclear which provisions of state law prevent this, or why ongoing sources of funding like the Low Carbon Transit Operations Program, cannot be used.

2. New zero-emission technology has not been implemented at a scale which adequately demonstrates its technological ability to meet existing fleet requirements.

The ICT Proposal cites the availability of ZEBs that would meet a 300-mile range requirement, however, such vehicles have not yet been tested in actual operation. Rather than state that range is no longer an issue for ZEBs, the ICT Proposal should include evidence of where such vehicles have been put in service and met those range requirements over an extended period of time. It is also unclear whether existing ZEBs will be able to meet the useful life requirements and whether the warranties for parts will be filled later in the vehicle's use. If unable to meet many of these requirements, this could put federal funding into jeopardy.

The ICT Proposal also does not include a discussion about the potential for impacts from increased bus axle weight. State law includes explicit bus axle weight limitations that transit buses must meet to operate on state highways and local streets and roads. The ICT Proposal fails to discuss these impacts, as required under existing state law. This discussion should also include details about the weight of electric buses and the associated range of the buses. Currently, the range cited by ZEB manufacturers do not account for the weight of the bus loaded with passenger, nor the use of air conditioning which greatly reduces the range.

There also is no discussion about electricity costs and how that will vary based on time of day, based on various fleet fueling requirements. Currently there is no certainty about the future of these costs, or what rates will be imposed for transit agencies. Many of the previous demonstrations of this technology were operating under special rate provisions which should not be held as the standard to determine costs for this regulation.

3. <u>The ICT Proposal dramatically expands its application, without clearly demonstrating the existence of the technology being commercially available.</u>

In previous iterations of the ICT Proposal and of a ZEB purchase requirement, the ARB limited its scope of application to urban buses. The current ICT Proposal significantly expands the scope to now include cutaway buses. This expansion was never previously discussed, and it is unclear that there is a commercially available cutaway bus to meet this requirement. On page six of the ICT Proposal, there is a statement that affirms that while some of these vehicles are in use today, none have been Altoona-tested and are not eligible for federal funding. Furthermore, often these buses are used to fulfill critical American with Disabilities Act (ADA) paratransit services. If transit agencies are not able to find buses to meet the ICT Proposal purchase requirement, this may not only lead to impacts to paratransit service, but could impact a transit agency's compliance with ADA.

4. <u>The timeline for implementation does not allow for sufficient opportunities to assess the technology availability or economic implications prior to enforcement.</u>

The timeline for the ICT Proposal only includes one opportunity for an economic and technological assessment of the regulation's provisions in 2022, which occurs after the first requirement is mandated. Under OCTA's existing procurement process, OCTA will potentially be looking at replacing 58 percent of its fleet by 2023. Currently, it is unclear whether the timing will require either 25 percent or 50 percent of the purchase to be ZEBs, pending regulatory interpretation. This procurement will begin before the 2022 assessment. Pending the assessment by ARB in 2022, these procurement requirements may be deferred or changed based on the findings. However, OCTA will still be required to abide by the purchase requirement even if the findings by the ARB demonstrate that the technology is not viable in larger operation, or it is not economically viable. The ICT proposal should ensure that technology and economic assessments are done before any requirement is enforced, including prior to 2020. In addition, if at any time a requirement is found to be technologically or economically infeasible, a grace period should be applied for all transit agencies, including agencies undergoing previous procurements.

5. <u>The ICT Proposal fails to account for each transit agency's unique procurement process, potentially impacting certain transit agencies more than others.</u>

As stated above, OCTA's procurement process is unique in that, unlike in the hypothetical scenario presented on page 12 of the ICT Proposal, OCTA does not procure vehicles every three years, and its procurements are for much larger portions of its fleet. Acknowledging that not every transit agency's procurement process is the same, or useful life requirements, the ICT Proposal should include flexibility to address each agency's process. This includes cost assessments, technology capabilities, bus availability and manufacturer warranty standards.

6. <u>Early action credits should be granted in a manner that takes into account all transit agency actions taken prior to any new requirement taking effect.</u>

OCTA supports ARB efforts to recognize those agencies that have taken steps to implement advanced technologies prior to any new regulatory requirements. Currently, the ICT Proposal provides for different credit levels depending on whether the bus was put into service before or after January 1, 2018 for hydrogen buses. It is unclear why that differentiation is made. Instead, the two credits should be awarded for all hydrogen buses procured prior to the regulation taking effect. In addition, credit should be awarded for all battery electric buses procured prior to the regulation taking effect, rather than no credit being awarded for buses put in service after December 31, 2017.

7. <u>The proposed conditions that would allow for temporary delay fail to take into account situations where service cuts may result or the technology fails to meet its stated capabilities</u>

OCTA appreciates efforts to include scenarios where the ARB Executive Director may approve extensions for compliance with the requirements when certain conditions are present. While each of the scenarios presented are valid, this type of extension should also be granted in other situations, including (but not limited to) situations where:

- additional new funding is not identified to cover the increased costs associated with this regulation
- transit funding is reduced or cut by the state or federal government
- the new technology is unable to comply with state or federal requirements and/or does not pass the new Altoona testing requirements
- the costs of complying with the regulation would result in a reduction in transit service

- the buses are unable to meet a transit agency's range or useful life requirements

8. <u>The ACT Proposal must consider infrastructure transition and facility requirements that will be required for a technology transition.</u>

ARB's ICT Proposal will require a complete re-assessment of current operating infrastructure to include a revamp of the existing power grid for battery powered buses, sources of hydrogen for fuel-cell buses, electrical charging outlets throughout the facilities, high voltage connectors, individual controllers intended to monitor energy dispensed on as a per bus basis, among other updates. This will all require expanded right of way at the transit bases, which may not be available. This will also necessitate additional funding investment, which is not contemplated in the current ICT Proposal. As an example, currently, one of the largest OCTA facilities has a peak electricity consumption for a 200-bus operation in the range of ~1.6 MWhr. Based on today's requirement for charging battery-powered buses, this amount of energy is only capable of charging about 26 electric buses. In order to support 200 electric buses, this capacity needs to be multiplied by about eight times.

Within each base, the infrastructure will also need to be updated. Existing fueling practice includes a location for fuel dispensing, with each bus only requiring five to seven minutes for fueling. Fueling for ZEBs would entail multiple sources/locations for vehicle tracking, fuel dispensing, recording of consumables, etc. Additionally, plug-in battery powered buses are required to be "plugged-in" for several hours which extends fueling time and requires facility capacity. For each fueling station, installation of electrical conduits, electric plugs, individual charging and monitoring stations will also be required. These updates should be covered in the ICT Proposal.

9. <u>Personnel training will be required for any technology transition, which is not currently addressed in the ICT Proposal.</u>

Traditionally, the work-force found in the transit industry includes a high degree of expertise with diesel engines, with transition now occurring because of the introduction of natural gas engines. With high demand for this knowledge in fields outside of transit, there are also numerous existing issues in attracting talent to fill maintenance and operations roles. ARB's ICT Proposal will create an added level of difficulty, by requiring a completely new type of staff knowledge, without any identified training opportunities.

A transition to ZEBs would require complete retraining on not only the technological operating elements of a bus, but also the safety aspects. Without any existing large operations of ZEBs at transit facilities, many of the implications of the technology change are unknown. Gradual implementation of the technology would allow transit agencies to mitigate these risks and prepare and protect their staff.

ATTACHMENT D

Orange County Transportation Authority Legislative Matrix

2018 State Legislation Session
February 15, 2018

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
BILLS WITH POSITIONS			
AB 278 **(Steinorth – R)** California Environmental Quality Act: Transportation	Exempts from the CEQA provisions a project, or the issuance of a permit for a project, that consists of the inspection, maintenance, repair, rehabilitation, replacement, or removal of, or the addition of an auxiliary lane or bikeway to, existing transportation infrastructure and that meets certain requirements.	**INTRODUCED:** 02/02/2017 **LOCATION:** Assembly Natural Resources Committee **STATUS:** 03/20/2017 In ASSEMBLY Committee on NATURAL RESOURCES: Failed passage. 03/20/2017 In ASSEMBLY Committee on NATURAL RESOURCES: Reconsideration granted.	SUPPORT (partial list) Support: California Chamber of Commerce, County of San Bernardino, Ventura County Transportation Commission Oppose: California Bicycle Coalition, California League of Conservation Voters, Coalition for Clean Air

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 302 **(Gipson – D)** South Coast Air Quality Management District: Fleets	Authorizes the governing board of the South Coast Air Quality Management District to adopt rules and regulations that require specified operators of public and commercial fleet vehicles to purchase zero-emission and near-zero-emission vehicles and that require those zero-emission and near-zero-emission vehicles to be operated in the South Coast District.	**INTRODUCED:** 02/06/2017 **LAST AMEND:** 04/17/2017 **LOCATION:** Assembly Transportation Committee **STATUS:** 05/08/2017 In ASSEMBLY Committee on TRANSPORTATION: Not heard.	OPPOSE Support: California Natural Gas Vehicle Coalition (Sponsor), Clean Energy, Coalition for Clean Air, Tesla Oppose: California Trucking Association, Truck and Engine Manufacturers Association
AB 344 **(Melendez – R)** Toll Evasion Violations	Provides that a person contesting a notice of toll evasion violation or notice of delinquent toll evasion is not required to pay the toll evasion penalty until after a processing agency or issuing agency finds as a result of an investigation, or the processing agency finds as a result of an administrative review, or a court finds as a result of a hearing, that the contestant did commit a toll evasion violation. Authorizes an administrative review to include reviews of multiple notices of toll evasion.	**INTRODUCED:** 02/07/2017 **LAST AMEND**: 07/03/2017 **LOCATION**: Senate Transportation and Housing Committee **STATUS:** 07/03/2017 In SENATE. Read second time and amended. Re-referred to Committee on TRANSPORTATION AND HOUSING	OPPOSE Support: American Civil Liberties Union Oppose: Transportation Corridor Agencies, Metropolitan Transportation Commission

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 686 (Santiago – D) Housing Discrimination: Further Fair Housing	Requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing. authorize the Director of Fair Employment and Housing to exercise his or her discretion to investigate, or to bring a civil action, based on a verified complaint that alleges a violation of these provisions. Requires an agency that completes an assessment of fair housing to submit it and post it on its Web site.	**INTRODUCED:** 02/15/2017 **LAST AMEND:** 07/17/2017 **LOCATION:** *Senate Transportation and Housing Committee* **STATUS:** 07/17/2017 In SENATE. Read second time and amended. Re-referred to Committee on TRANSPORTATION AND HOUSING..	OPPOSE (partial list) Support: National Housing Law Project (co-sponsor), Public Advocates (co-sponsor), Western Center on Law & Poverty (co-sponsor) California Environmental Justice Alliance, Fair Housing Council of Orange County Oppose: CALCOG, RCTC, Southern California Association of Governments

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1454 **(Bloom – D)** Transportation Projects: Lease Agreements	Amends the existing law which authorizes for the Department of Transportation and regional transportation agencies to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. Reestablishes the authority under state law to engage in public-private partnerships for projects on the state highway system.	**INTRODUCED:** 02/17/2017 **LAST AMEND:** 05/01/2017 **LOCATION:** Assembly Rules Committee **STATUS:** 05/04/2017 Re-referred to ASSEMBLY Committee on RULES.	SUPPORT Support: Associated General Contractors, California and San Diego Chapters Oppose: American Federation of State, County, and Municipal Employees, California School Employees Association, Professional Engineers in California Government
AB 1640 **(Garcia – D)** Transportation Funding: Low Income Communities	Requires each regional transportation improvement program to allocate 25 percent of available funds to projects or programs that provide direct, meaningful, and assured benefits to low income individuals who live in identified communities or to riders of transit service that connects low income residents to critical amenities and services.	**INTRODUCED:** 02/17/2017 **LOCATION:** Assembly Transportation Committee **STATUS:** 03/16/2017 To ASSEMBLY Committee on TRANSPORTATION.	OPPOSE Oppose: Self-Help Counties Coalition

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 264 **(Nguyen – R)** High-Occupancy Toll Lanes: Interstate 405	Requires net excess toll revenues, as defined, received from high-occupancy toll lanes on a specified portion of an approximately 16-mile-long project corridor in the County of Orange on Interstate 405 and that traverses the Cities of Costa Mesa, Fountain Valley, Huntington Beach, Westminster, and Seal Beach to be allocated to the Orange County Transportation Authority and certain project corridor jurisdictions according to a specified schedule.	**INTRODUCED:** 02/08/2017 **LAST AMEND:** 04/04/2017 **LOCATION:** Senate Transportation and Housing Committee **STATUS:** 04/25/2017 In SENATE Committee on TRANSPORTATION AND HOUSING: Not heard.	OPPOSE Oppose: HNTB Corporation, Self-Help Counties Coalition, Professional Engineers in California Government

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
▶ ***SB 268*** ***(Mendoza – R)*** Los Angeles County Metropolitan Transportation	Requires the Los Angeles County Metropolitan Transportation Authority to submit a plan to the Legislature for revising the composition of the authority, if the number of members of the board of supervisors is increased, within a specified number of days of the increase. Adds the county auditor as a nonvoting member of the board of directors. Reduces the number of the board of supervisors. Requires that one supervisor represent the largest population in the unincorporated area of the County of Los Angeles.	**INTRODUCED:** 02/08/2017 **LAST AMEND:** *09/05/2017* **LOCATION:** *Assembly Local Government Committee* **STATUS:** In ASSEMBLY. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT.	OPPOSE (partial list) Support: California Contract Cities Association, Gateway Cities Council of Governments, League of California Cities, Los Angeles County Division Oppose: Los Angeles Area Chamber of Commerce, Los Angeles County Board of Supervisors, LA Metro, Orange County Business Council, SBCTA, RCTC, Metrolink

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 768 **(Allen – D)** Transportation Projects: Comprehensive Development	Extends the authorization of the Department of Transportation and regional transportation agencies to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees.	**INTRODUCED:** 02/17/2017 **LAST AMEND:** 03/27/2017 **LOCATION:** Senate Appropriations Committee **STATUS:** 05/25/2017 In SENATE Committee on APPROPRIATIONS: Held in committee.	SUPPORT Support: Associated General Contractors, California and San Diego chapters, California Conference of Carpenters, California State Council of Laborers Oppose: American Federation of State, County, and Municipal Employees, California School Employees Association, Professional Engineers in California Government

BILLS BEING MONITORED

AB 1 (Frazier), which pertained to transportation funding, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 5 (Gonzalez), which pertained to the Opportunity To Work Act, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 33 (Quirk), which pertained to transportation electrification, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 65 (Patterson), which pertained to transportation bond debt service, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 66 (Patterson), which pertained to High-Speed Rail Authority reports, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

▶ CA AB 87

AUTHOR: Ting [D]
TITLE: Autonomous Vehicles
INTRODUCED: 01/05/2017
LAST AMEND: *01/03/2018*
DISPOSITION: Pending - Carryover
LOCATION: *SENATE*
SUMMARY:

Requires the Department of Motor Vehicles to adopt application requirements for the testing of autonomous vehicles on public roads without the presence of a driver inside. Requires that the manufacturer certify that the local authorities within the jurisdiction where the autonomous vehicle will be tested have been provided with a written notification. Requires that the manufacturer provide certain law enforcement agencies with a copy of a law enforcement interaction plan.

STATUS:
01/19/2017 *In ASSEMBLY. Read third time. Passed ASSEMBLY. To SENATE.*
CATEGORY: Miscellaneous

CA AB 91		
	AUTHOR:	Cervantes [D]
	TITLE:	High-Occupancy Vehicle Lanes
	INTRODUCED:	01/09/2017
	LAST AMEND:	06/20/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Senate Inactive File
	SUMMARY:	
	Prohibits a high-occupancy vehicle lane from being established in the County of Riverside, unless that lane is established as a high-occupancy vehicle lane only during the hours of heavy commuter traffic, as determined by the Department of Transportation.	
	STATUS:	
	09/15/2017	In SENATE. From third reading. To Inactive File.
	CATEGORY:	Miscellaneous

CA AB 151		
	AUTHOR:	Burke [D]
	TITLE:	California Global Warming Solutions Act
	INTRODUCED:	01/11/2017
	LAST AMEND:	05/02/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Assembly Inactive File
	SUMMARY:	
	Amends the Global Warming Solutions Act. Requires the Air Resources Board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan. Requires the state board to report to the Legislature on the need for increased education, career technical education, job training, and workforce development in ensuring that statewide greenhouse gas emissions are reduced by a specified level.	
	STATUS:	
	08/24/2017	In ASSEMBLY. From third reading. To Inactive File.
	CATEGORY:	Environment

AB 161 (Levine), which pertained to infrastructure investment, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 190 (Steinworth), which pertained to local government development permits, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 206 (Gonzalez), which pertained to workers compensation, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 221 (Gray), which pertained to workers compensation, failed passage and is now dead. Therefore, the bill has been removed from the matrix.

AB 241 (Dababneh), which pertained to personal information privacy, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 287 (Holden), which pertained to State Highway Route 710, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 351 (Melendez), which pertained to transportation funding, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

CA AB 378	**AUTHOR:**	Garcia [D]
	TITLE:	Greenhouse Gases and Criteria Air Pollutants
	INTRODUCED:	02/09/2017
	LAST AMEND:	05/30/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Assembly Inactive File
	SUMMARY:	
	Requires the State Air Resources Board when adopting rules and regulations to achieve certain greenhouse gas emissions reductions to follow specified requirements and prioritize specified emission reduction rules and regulations. Requires the Board to adopt air pollutant emissions standards for emissions of criteria air pollutants and toxic air contaminants at industrial facilities.	
	STATUS:	
	09/11/2017	In ASSEMBLY. Reconsideration granted.
	09/11/2017	In ASSEMBLY. To Inactive File.
	CATEGORY:	Environment

AB 399 (Grayson), which pertained to autonomous vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 419 (Salas), which pertained to greenhouse gas emissions, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 496 (Fong), which pertained to transportation funding, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 533 (Holden), which pertained to State Highway Route 710, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 548 (Steinorth), which pertained to the Omnitrans Transit District, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 623 (Rodriguez), which pertained to the autonomous vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 636 (Irwin), which pertained to local streets and roads, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 694 (Ting), which pertained to bicycles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

CA AB 697	**AUTHOR:**	Fong [R]
	TITLE:	Tolls: Exemption for Privately Owned Ambulances
	INTRODUCED:	02/15/2017
	LAST AMEND:	06/12/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Senate Inactive File
	SUMMARY:	
	Modifies the exemption of authorized emergency vehicles from the payment of a toll to apply to the use of a toll facility. Expands the exemption, dispute resolution procedures, and agreement provisions to include a privately owned emergency ambulance licensed by the Department of the California Highway Patrol.	
	STATUS:	
	09/16/2017	In SENATE. From third reading. To Inactive File.
	CATEGORY:	Toll Lanes

AB 965 (Kiley), which pertained to civil liabilities for the California Department of Transportation, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 971 (Choi), which pertained to driving offenses for falling items, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 972 (Choi), which pertained to driving offenses for not labeling items, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

CA AB 1017	**AUTHOR:**	Santiago [D]
	TITLE:	Collective Bargaining Agreements: Arbitration
	INTRODUCED:	02/16/2017
	LAST AMEND:	07/05/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Senate Inactive File
	SUMMARY:	
	Amends the existing law, with regard to disputes concerning collective bargaining agreements for private employees. Provides for such provision apply to public employment. Limits liability for attorney's fees under such provisions to a labor organization or employer.	
	STATUS:	
	09/15/2017	In ASSEMBLY. Ordered returned to SENATE. To SENATE.
	CATEGORY:	Employment

▶ CA AB 1041	**AUTHOR:**	Levine [D]
	TITLE:	*Bay Area Toll Authority: Conflict of Interest*
	INTRODUCED:	02/16/2017
	LAST AMEND:	*01/03/2018*
	DISPOSITION:	Pending - Carryover
	LOCATION:	*SENATE*
	SUMMARY:	
	Amends existing law relating to the Metropolitan Transportation Commission. Prohibits a representative appointed to the Oversight Committee from being affiliated, in any manner, with the Metropolitan Transportation Commission.	
	STATUS:	
	01/16/2018	*In ASSEMBLY. Read third time. Passed ASSEMBLY. To SENATE.*
	CATEGORY:	Funding

AB 1103 (Obernolte), which pertained to bicycles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1141 (Berman), which pertained to autonomous vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1160 (Bonta), which pertained to autonomous vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1235 (Daly), which pertained to the Santa Ana River Conservancy Program, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1255 (Dababneh), which pertained to digital mobile driver's license applications, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1259 (Calderon), which pertained to the Capital Access Loan Program for electric vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

▶ CA AB 1324	**AUTHOR:**	Gloria [D]
	TITLE:	*Transportation: Local Transportation Authorities: Transactions and Use Tax*
	INTRODUCED:	02/17/2017
	LAST AMEND:	*1/29/2018*
	DISPOSITION:	Pending - Carryover
	LOCATION:	*Assembly Third Reading File*
	SUMMARY:	
	Amends existing law relating to a local transportation authority's imposition of local retail transactions and use taxes. Authorizes an authority to impose a tax applicable to only a portion of its county by voter approval. Provides that the revenues derived from the tax be spent within, or for the benefit of, the portion of the county to which the tax would apply. Authorizes a certain Association of Governments to impose a transactions and use tax for transportation purposes.	
	STATUS:	
	1/29/2018	In ASSEMBLY. Read third time and amended. To third reading.
	CATEGORY:	Funding

AB 1333 (Dababneh), which pertained to local government agency notices, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1341 (Calderon), which pertained to tax credits for zero-emission vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1363 (Baker), which pertained to transportation revenues, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

▶ CA AB 1395	**AUTHOR:**	Chu [D]
	TITLE:	*Department of Transportation: Litter Cleanup and Abatement*
	INTRODUCED:	02/17/2017
	LAST AMEND:	*01/22/2018*
	DISPOSITION:	Pending - Carryover
	LOCATION:	*SENATE*
	SUMMARY:	
	Requires the Department of Transportation to assign the highest priority to litter along state highways and other high litter incidence areas for the reallocation of existing litter cleanup resources. Requires the Department to conduct an assessment of the problem of litter on state highways.	
	STATUS:	
	01/29/2018	*In ASSEMBLY. Read third time. Passed ASSEMBLY. To SENATE.*
	CATEGORY:	Funding

AB 1421 (Dababneh), which pertained to the noise and vibration levels associated with railroad lines, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1442 (Allen), which pertained to transportation revenues, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1469 (Grayson), which pertained to school transportation, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1470 (Wood), which pertained to state highways, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1489 (Brough), which pertained to the Architects Practice Act, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1509 (Baker), which pertained to the San Francisco Bay Area Rapid Transit District, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1519 (Cervantes), which pertained to the state highways, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

CA AB 1603	**AUTHOR:**	Ridley-Thomas S [D]
	TITLE:	Meyers-Milias-Brown Act: Local Public Agencies
	INTRODUCED:	02/17/2017
	LAST AMEND:	08/24/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Senate Inactive File
	SUMMARY:	
	Relates to the Meyers-Milias-Brown Act which allows employees of local public agencies have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Revises the definition of public employee to include persons jointly employed by a public agency and any other employer at specified clinics and hospitals. Specifies rules and regulations.	
	STATUS:	
	09/16/2017	In SENATE. From third reading. To Inactive File.
	CATEGORY:	Employment

AB 1635 (Quirk-Silva), which pertained public contracts and small business participation, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

AB 1683 (Burke), which pertained to the Transformative Climate Communities Program, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

▶CA AB 1745

AUTHOR:	Ting [D]
TITLE:	Vehicles: Clean Cars 2040 Act
INTRODUCED:	01/03/2018
DISPOSITION:	Pending
LOCATION:	Assembly Transportation Committee

SUMMARY:

Requires all new passenger vehicles to be zero emissions vehicles after January 1, 2040. States that zero emissions vehicles cannot produce exhaust emissions of any criteria pollutant or greenhouse gas under any operational mode or condition. Exempts large commercial vehicles (larger than 10,000 pounds) and does not apply to vehicles owned by people moving into California from other states.

STATUS:

01/16/2018	To ASSEMBLY Committee on TRANSPORTATION.
CATEGORY:	Environment

▶CA AB 1755

AUTHOR:	Steinorth [R]
TITLE:	Bicycle and Pedicab Operation
INTRODUCED:	01/03/2018
DISPOSITION:	Pending
LOCATION:	Assembly Transportation Committee

SUMMARY:

Subjects a person riding a bicycle or operating a pedicab on a bikeway or other publicly maintained trail or road to those rights and requirements of the Vehicle Code.

STATUS:

01/16/2018	To ASSEMBLY Committee on TRANSPORTATION.
CATEGORY:	Active Transportation

▶CA AB 1756

AUTHOR:	Brough [R]
TITLE:	Transportation Funding
INTRODUCED:	01/04/2018
DISPOSITION:	Pending
LOCATION:	Assembly Transportation Committee

SUMMARY:

Repeals the Road Repair and Accountability Act of 2017 which establishes, among other things, a comprehensive transportation funding program by increasing the motor vehicle fuel (gasoline) tax.

STATUS:

01/16/2018	To ASSEMBLY Committee on TRANSPORTATION.
CATEGORY:	Funding

▶CA AB 1759	**AUTHOR:**	McCarty [D]
	TITLE:	General Plans: Housing Element: Production Report
	INTRODUCED:	01/04/2018
	DISPOSITION:	Pending
	LOCATION:	ASSEMBLY
	SUMMARY:	
	Requires the Department of Housing and Community Development to review each production report submitted by a city or county in accordance with specified provisions to determine whether that city or county has met the applicable minimum production goal for that reporting period.	
	STATUS:	
	01/04/2018	INTRODUCED.
	CATEGORY:	Miscellaneous

▶CA AB 1792	**AUTHOR:**	Frazier [D]
	TITLE:	Local Government: Municipal Improvement Projects
	INTRODUCED:	01/09/2018
	DISPOSITION:	Pending
	LOCATION:	ASSEMBLY
	SUMMARY:	
	States the intent of the Legislature to enact legislation that would provide local governments with resources and streamlining for municipal improvements and restoration projects.	
	STATUS:	
	01/09/2018	INTRODUCED.
	CATEGORY:	Public Works

▶CA AB 1866	**AUTHOR:**	Fong [R]
	TITLE:	Transportation funding
	INTRODUCED:	01/12/2018
	DISPOSITION:	Pending
	LOCATION:	Assembly Transportation Committee
	SUMMARY:	
	Creates the Traffic Relief and Road Improvement Program to address traffic congestion and deferred maintenance on the state highway system and the local street and road system. Provides for the deposit of various existing sources of revenue in the Traffic Relief and Road Improvement Account as created by this bill in the State Transportation Fund, including specified revenues attributable to sales and use tax on vehicles, from motor vehicle insurance policies, diesel fuel and registration fees.	
	STATUS:	
	01/29/2018	To ASSEMBLY Committee on TRANSPORTATION.
	CATEGORY:	Funding

▶CA AB 1867	**AUTHOR:**	Reyes [D]
	TITLE:	Employment Discrimination: Sexual Harassment
	INTRODUCED:	01/12/2018
	DISPOSITION:	Pending
	LOCATION:	ASSEMBLY
	SUMMARY:	
	Requires an employer with 50 or more employees to maintain records of employee complaints of sexual harassment for 10 years from the date of filing. Requires the Department of Fair Employment and Housing to seek an order requiring an employer that violates the recordkeeping requirement to comply.	
	STATUS:	
	01/12/2018	INTRODUCED.
	CATEGORY:	Employment

▶CA AB 1870	**AUTHOR:**	Reyes [D]
	TITLE:	Employment Discrimination: Unlawful Practices
	INTRODUCED:	01/12/2018
	DISPOSITION:	Pending
	LOCATION:	ASSEMBLY
	SUMMARY:	
	Extends the period to 3 years for which complaints alleging unlawful employment or housing practices may be filed with the Department of Fair Employment and Housing.	
	STATUS:	
	01/12/2018	INTRODUCED.
	CATEGORY:	Employment

▶CA AB 1938	**AUTHOR:**	Burke [D]
	TITLE:	Employment Discrimination: Familial Status
	INTRODUCED:	01/25/2018
	DISPOSITION:	Pending
	LOCATION:	ASSEMBLY
	SUMMARY:	
	Prohibits an employer or other covered entity from making a nonjob-related inquiry to, or expressing any limitation, specification, or limitation based upon a person's familial status.	
	STATUS:	
	01/25/2018	INTRODUCED.
	CATEGORY:	Employment

ACA 4 (Aguiar-Curry), which pertained to local government financing, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

▶CA ACA 21	**AUTHOR:**	Mayes [R]
	TITLE:	State infrastructure: funding: investment fund
	INTRODUCED:	01/03/2018
	DISPOSITION:	Pending
	LOCATION:	ASSEMBLY
	SUMMARY:	
	Amends the California Constitution to create the California Infrastructure Investment Fund in the State Treasury. Requires the Controller to transfer from the General Fund to the California Infrastructure Investment Fund in each fiscal year an amount equal to up to 2.5% of the estimated General Fund revenues for that fiscal year. Requires the amounts in the fund to be allocated for specified infrastructure investments.	
	STATUS:	
	01/03/2018	INTRODUCED.
	CATEGORY:	Funding

SB 21 (Hill), which pertained to the California Highway Patrol, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 41 (Galgiani), which pertained to the State Air Resources Board, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 49 (de Leon), which pertained to the Environmental and Workers' Defense Act, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 79 (Allen), which pertained to exemptions under sales and use taxes, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 137 (Allen), which pertained to transit districts, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 158 (Monning), which pertained to the training requirements associated with a Commercial Driver's License, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

CA SB 244	**AUTHOR:**	Lara [D]
	TITLE:	Privacy: Agencies: Personal Information
	INTRODUCED:	02/06/2017
	LAST AMEND:	09/08/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Assembly Inactive File
	SUMMARY:	
	Revises the existing provision to provide that information is not open for public inspection, is confidential, and shall not be disclosed. Establishes that personal information collected or obtained pursuant to these provisions is confidential, and provide that information would only be collected, used, and retained to administer to public services or programs for which that information was collected or obtained.	
	STATUS:	
	09/14/2017	In ASSEMBLY. From third reading. To Inactive File.
	CATEGORY:	Miscellaneous

SB 251 (Canella), which pertained to autonomous vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 262 (Wieckowski), which pertained to the Climate Change Advisory Council, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 263 (Leyva), which pertained to climate assistance centers, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 275 (Portantino), which pertained to surplus residential property, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 348 (Leyva), which pertained to the county voter information guide, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 369 (Hertzberg), which pertained to autonomous vehicles, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 371 (Moorlach), which pertained to local public employee organizations, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 414 (Vidak), which pertained to transportation bonds, failed passage and is now dead. Therefore, the bill has been removed from the matrix.

SB 415 (Vidak), which pertained to the High-Speed Rail rights-of-way, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 422 (Wilk), which pertained to public-private partnership authority, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 423 (Cannella), which pertained to indemnity agreements, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 477 (Cannella), which pertained to intercity rail corridor extensions, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 480 (Hueso), which pertained to the San Diego-Coronado Bridge safety study, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 571 (Pan), which pertained to public employee retirement plans, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 604 (Glazer), which pertained to the San Francisco Bay Area Rapid Transit District, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 686 (Wilk), which pertained to public contracts, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SB 697 (Stone), which pertained to land use development fees, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

▶ CA SB 760	**AUTHOR:**	Wiener [D]
	TITLE:	Transportation Funding: Active Transportation:
	INTRODUCED:	02/17/2017
	LAST AMEND:	*01/23/2018*
	DISPOSITION:	Pending - Carryover
	LOCATION:	*ASSEMBLY*
	SUMMARY:	
	Authorizes a city, county, regional, other local agency, when using alternative minimum safety design criteria for the planning and construction of bikeways, to consider additional design guides, including the Urban Street Design Guide of the National Association of City Transportation Officials. Authorizes a state entity that is responsible for the planning and construction of roadways to consider additional design guides.	
	STATUS:	
	01/29/2018	*In SENATE. Read third time. Passed SENATE. To ASSEMBLY.*
	CATEGORY:	Funding

CA SB 771	**AUTHOR:**	de Leon [D]
	TITLE:	California Environmental Quality Act
	INTRODUCED:	02/17/2017
	LAST AMEND:	07/18/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Assembly Inactive File
	SUMMARY:	
	Relates to The California Environmental Quality Act. Establishes a continuing education requirement for employees of public agencies who have primary responsibility to administer the act.	
	STATUS:	
	09/13/2017	In ASSEMBLY. To Inactive File.
	CATEGORY:	Environment

SB 775 (Wieckowski), which pertained to greenhouse gas emissions regulations, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

▶ CA SB 827	**AUTHOR:**	Wiener [D]
	TITLE:	Planning and zoning: transit-rich housing bonus
	INTRODUCED:	01/03/2018
	DISPOSITION:	Pending
	LOCATION:	Senate Transportation and Housing Committee
	SUMMARY:	
	Authorizes a transit-rich housing project to receive a transit-rich housing bonus. Defines transit-rich. Specifies parcels of which are all within a specified radius of a major transit stop.	
	STATUS:	
	01/16/2018	To SENATE Committees on TRANSPORTATION AND HOUSING and GOVERNANCE AND FINANCE.
	CATEGORY:	Planning

▶CA SB 828	**AUTHOR:**	Wiener [D]
	TITLE:	Land use: housing element
	INTRODUCED:	01/03/2018
	DISPOSITION:	Pending
	LOCATION:	Senate Rules Committee
	SUMMARY:	
	States the intent of the Legislature to enact legislation that would require the Department of Housing and Community Development to take certain actions relating to unmet housing needs.	
	STATUS:	
	01/16/2018	To SENATE Committee on RULES.
	CATEGORY:	Planning

▶CA SB 893	**AUTHOR:**	Nguyen [R]
	TITLE:	Planning and zoning: density bonus
	INTRODUCED:	01/11/2018
	DISPOSITION:	Pending
	LOCATION:	Senate Transportation and Housing Committee
	SUMMARY:	
	Deletes existing law that prohibits, at the request of a developer, a county or county from imposing a vehicular parking ratio in excess of specified ratios on a development that meets specified criteria.	
	STATUS:	
	01/24/2018	To SENATE Committees on TRANSPORTATION AND HOUSING and GOVERNANCE AND FINANCE.
	CATEGORY:	Planning

▶CA SB 899	**AUTHOR:**	Bradford [D]
	TITLE:	Workers Compensation
	INTRODUCED:	01/16/2018
	DISPOSITION:	Pending
	LOCATION:	Senate Rules Committee
	SUMMARY:	
	Makes technical, nonsubstantive changes to existing law which provides that the actions of the Workers' Compensation Appeals Board are taken by a decision of a majority of the board.	
	STATUS:	
	01/24/2018	To SENATE Committee on RULES.
	CATEGORY:	Employment

▶CA SB 903	**AUTHOR:**	Cannella [R]
	TITLE:	Transportation Development Act: County of Stanislaus
	INTRODUCED:	01/16/2018
	DISPOSITION:	Pending
	LOCATION:	Senate Transportation and Housing Committee
	SUMMARY:	
	Authorizes the Stanislaus Council of Governments, a transportation planning agency, to consider population density when determining if specified operators have met the requirements for claims for transit funds, and to reduce the applicable ratio of fare revenues to operating cost for specified operators by up to 5 percentage points from the ratio that was effective during the 2016-17 fiscal year if the population density of the County of Stanislaus is less than, or equal to, 1000 persons per square mile.	
	STATUS:	
	01/24/2018	To SENATE Committee on TRANSPORTATION AND HOUSING.
	CATEGORY:	Funding

CA SCA 2	**AUTHOR:**	Newman [D]
	TITLE:	Motor Vehicle Fees and Tax: Restriction on Expenditures
	INTRODUCED:	01/18/2017
	LAST AMEND:	03/30/2017
	DISPOSITION:	Pending - Carryover
	LOCATION:	Senate Inactive File
	SUMMARY:	
	Requires revenues derived from vehicle fees imposed under a specified chapter of the Vehicle License Fee Law to be used solely for transportation purposes. Prohibits these revenues from being used for the payment of principal and interest on state transportation general obligation bonds. Restricts portions of the sales and use tax on diesel fuel to expenditure on certain transportation planning or mass transportation purposes. Requires those revenues to be deposited in the Public Transportation Account.	
	STATUS:	
	04/17/2017	In SENATE. From third reading. To Inactive File.
	CATEGORY:	Funding

SCA 6 (Wiener), which pertained to local transportation measures, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

SCA 10 (Moorlach), which pertained to public employee retirement benefits, failed to meet committee deadlines and is now dead. Therefore, the bill has been removed from the matrix.

OCTA

February 15, 2018

To:	Legislative and Communications Committee
From:	Darrell Johnson, Chief Executive Officer
Subject:	Federal Legislative Status Report

Overview

Updates are provided on the recent federal funding bills, Orange County Transportation Authority's advocacy efforts on the OC Streetcar project, tax legislation signed into law in December 2017, the President's infrastructure proposal, and pending confirmations to the Department of Transportation. A summary of the United States Senate Environment and Public Works Subcommittee hearing on freight movement is provided.

Recommendation

Receive and file as an information item.

Discussion

Government Funding Update

On December 8, 2017, the President signed a continuing resolution (CR), a "stop-gap" funding measure to ensure funding for all departments of the federal government through December 22, 2017. The previous government funding bill was set to expire on December 8, 2017. This two week CR passed the Senate by a vote of 81-14 and the House of Representatives by a vote of 235-193. On December 22, 2017, the President signed another CR to fund the federal government through January 19, 2018. This CR passed the Senate by a vote of 66-32 and the House by a vote of 231-188. This CR included a provision to prevent the budgetary effects of the tax reform legislation from being counted for purposes of the Statutory Pay-As-You-Go Act of 2010, which triggers automatic spending cuts if Congress enacts legislation changing taxes, fees, or mandatory expenditures in a way that increases projected deficits.

On January 18, 2018, the House passed a CR that would have lasted through February 16, 2018. That CR included a six-year authorization of the Children's Health Insurance Program among other minor changes made to health care programs. On January 19, 2018, a Senate motion to invoke cloture on this measure failed by a vote of 50-49, causing a partial government shutdown at midnight on January 20, 2018. The government shutdown lasted until January 22, 2018, when Congressional leaders agreed to a CR through February 8, 2018. This CR passed the House by a vote of 266-150 and the Senate by a vote of 81-18, and it included the same policy provisions as the version of the CR that passed the House just a few days earlier.

On February 6, 2018, the House passed a CR through March 23, 2018. The next day, Senate leaders agreed to a bipartisan budget deal that they attached to the House-passed CR. Due to Senate procedural rules, the bill was not approved by the Senate and House until early on February 9, 2018. As a result, there was another partial government shutdown for a few hours. The CR, with the budget deal, passed the House by a vote of 240-186 and the Senate by a vote of 71-28. It was signed into law by the President later that day. The bipartisan compromise increased discretionary spending for the next two fiscal years well beyond the budget caps imposed by the Budget Control Act of 2011. For the remainder of the 2018 fiscal year, the bill will increase discretionary defense spending by $80 billion and non-defense discretionary spending by $63 billion. These funding increases will allow for additional funding capacity in an omnibus funding bill that Congress is expected to consider in the coming weeks. Specifically, the budget deal will likely result in increased funding for transportation programs, including the Capital Investment Grant program that is expected to fund the OC Streetcar project.

The budget deal also extended the debt limit until March 2, 2019, provided more than $80 billion in disaster funding, and extended through tax year 2017 the Alternative Fuel Excise Tax Credit that had expired at the end of tax year 2016. The bill had just been released as this staff report was prepared. As such, staff will provide any additional details at the February 15, 2018, Legislative and Communications Committee meeting.

OC Streetcar Advocacy Update

In November 2017, Chairman Michael Hennessey, Legislative and Communications Chairman Shawn Nelson, Chief Executive Officer (CEO) Darrell Johnson, and Government Relations staff traveled to Washington, D.C. to discuss the OC Streetcar project with Members of Congress and officials from the Department of Transportation. The group emphasized the benefits of the project for the region and highlighted the need for the Secretary of

Transportation to sign the full funding grant agreement so that the Federal Transit Administration (FTA) can continue its activities with the Orange County Transportation Authority (OCTA). As a result of these successful meetings, members of the Orange County Congressional delegation sent Transportation Secretary Elaine L. Chao a letter in support of the OC Streetcar. The letter, sent on December 20, 2017, is included as Attachment A.

In January 2018, Chairwoman Lisa A. Bartlett, CEO Darrell Johnson, and Government Relations staff traveled to Washington, D.C. to introduce the new Chair. The delegation also used the meetings with the Congressional delegation and the FTA as an opportunity to discuss the timing of a full funding grant agreement for the OC Streetcar project and provide follow-up materials from the December meetings.

Tax Legislation

On December 22, 2017, the President signed into law the tax reform legislation that was discussed at the November Legislative and Communications Committee meeting. The final conference report passed the House by a vote of 224-201 and the Senate by a vote of 51-48. The bill is expected to increase the federal deficit by $1.456 trillion over the next decade, and as noted above, these lost revenues will not be counted for purposes of the Statutory Pay-As-You-Go Act of 2010.

The final bill did not include a long-term fix for the Highway Trust Fund's structural revenue deficit, contrary to what many transportation groups advocated. The final agreement repealed the tax exemption for advance refunding bonds, which will likely increase borrowing costs for transportation agencies that issue these instruments. The conference report also limited the employer deduction for transportation benefits and repealed the employee deduction for bicycle benefits. Without these tax incentives, commuter benefits will become more expensive, potentially causing employers to alter or terminate their current benefit packages. The final bill did not repeal the tax exemption for private activity bonds or the tax credit for plug-in electric vehicles, each of which was included in the House bill. The conference report included a projected $324.4 billion worth of repatriated earnings over the next ten years, an amount that was significantly more than the original proposals. This lost revenue could have otherwise been used to fund infrastructure projects.

Prior to the bill's passage, the Southern California Association of Governments worked with transportation agencies across the region to outline how the different policy changes that were being discussed would impact the delivery of transportation projects. OCTA provided input on the agency's concerns and signed the final letter, which is included as Attachment B.

Infrastructure Proposal

On January 30, 2018, the President used the State of the Union Address to reiterate his support for an infrastructure package by asking Congress to produce a bill that invests $1.5 trillion in infrastructure projects. That night, the White House released a fact sheet, included as Attachment C, to give some guidance on what the Administration would like to see in such a bill. According to this document, the President plans to divide the new funding as follows:

- Half of new funds would go to incentivizing new, non-federal revenue;
- A quarter of funds will address rural infrastructure needs; and
- Significant funding to prioritize projects based on community need.

The structure of the $1.5 trillion in funding is still unclear, and the President has offered little detailed guidance on how Congress should finance such an investment. The President's 2018 Budget proposed a $1 trillion infrastructure package but only planned to appropriate $200 billion, with the remainder dependent on the generation of new state and local funding sources and increased private investment. In the State of the Union, the President noted that "[e]very Federal dollar should be leveraged by partnering with State and local governments and, where appropriate, tapping into private sector investment." Following the speech, news reports have indicated that the infrastructure package would only have a federal investment of $200 billion, and lawmakers on both sides of the aisle questioned how Congress would structure the proposal.

In details leaked prior to the State of the Union, there were several areas of potential concern with the principles for an infrastructure package. For instance, the funding meant to incentivize new state and local investment, the largest portion of funding in the proposal, is reported to exclude any investment passed more than three years ago. As such, funding provided by Measure M2, which passed in 2006, would not qualify as a new local or state funding source, potentially lowering the ranking for projects using this local funding. In addition, reports revealed that there would be limits on what percentage of the project cost could be funded by the infrastructure package, with some funding from the proposal being limited to no more than 20 percent of the total project cost. As a result, most projects funded through the infrastructure package would be largely dependent on state and local funding. Staff will closely monitor the situation and give a verbal update at the February 15, 2018, Legislative and Communications

Committee meeting should there be any significant developments since the drafting of this staff report.

Pending Nominations to the Department of Transportation

On July 10, 2017, the President nominated Ronald L. Batory, former President and CEO of Conrail Inc., to be the Administrator of the Federal Railroad Administration (FRA). The nomination was initially referred to the Senate Committee on Science, Commerce, and Transportation, where it was reported favorably on August 2, 2017. Batory's nomination is awaiting confirmation by the full Senate. On January 26, 2018, it was reported that Heath Hall, who had been serving as Acting Administrator while Batory awaited confirmation, was taking an extended leave. As a result, Chief Counsel Juan Reyes became the Acting Deputy Administrator of the FRA.

On September 11, 2017, the President nominated Paul Trombino, former Director of the Iowa Department of Transportation, to be the Administrator of the Federal Highway Administration. The nomination was referred to the Senate Committee on Science, Commerce, and Transportation, where it was reported favorably on October 25, 2017. On December 11, 2017, Trombino removed himself from consideration, citing family concerns. No replacement has been named at the writing of this report.

The President has yet to nominate an Administrator to the FTA. Staff will keep the OCTA Board of Directors updated as the nominations and confirmations progress.

Senate Committee on Environment and Public Works Subcommittee Hearing on Freight Movement

On December 20, 2017, the Senate Committee on Environment and Public Works Subcommittee on Transportation and Infrastructure held a hearing entitled, "Freight Movement: Assessing Where We Are Now and Where We Need To Go." During the hearing, Senators from both sides of the aisle acknowledged the need for greater infrastructure investment, particularly in freight infrastructure. Subcommittee Chairman James Inhofe (R-OK) highlighted that the FAST Act included $6.3 billion in freight formula funding and $4.5 billion in grant programs to improve freight movement. Both Chairman Inhofe and the witnesses agreed that more was needed and that federal funds should be prioritized to ensure that they have the largest impact on the economy.

Chris Spear, President and CEO of the American Trucking Associations, discussed how a 20 cent per gallon fee built into the price of transportation fuels collected at the terminal rack, as well as an increase in registration fees, could be considered as potential funding sources for future infrastructure projects. He also called for Highway Trust Fund dollars to be restricted to highways and requested that Congress maintain the existing caps on non-highway spending under the FAST Act freight formula and Infrastructure for Rebuilding America grant program. Mark Policinski, speaking as a member of the Coalition for America's Gateways and Trade Corridors, urged Congress to lift the caps on non-highway spending, noting that freight moves on networks other than highways as well.

Summary

Updates are provided on the government funding bills, OCTA's advocacy efforts, tax legislation, the infrastructure package, and pending confirmations to the Department of Transportation. A summary of the Senate hearing on freight movement is also provided. The November, December, and January monthly activity reports from OCTA's Washington advocate, Potomac Partners DC, are provided as Attachment D, E, and F, respectively.

Attachments

A. Letter from Orange County Congressional Delegation to the Honorable Elaine L. Chao, Secretary, U.S. Department of Transportation supporting a Full Funding Grant Agreement for the OC Streetcar, dated December 20, 2017

B. Joint letter from Southern California Transportation Agencies to the Honorable Paul D. Ryan, Speaker of the House of Representatives, and the Honorable Mitch McConnell, Senate Majority Leader, on tax reform legislation, dated November 29, 2017

C. THE WHITE HOUSE, Office of the Press Secretary, FOR IMMEDIATE RELEASE, January 30, 2018

D. Potomac Partners DC, Monthly Legislative Report, November 2017

E. Potomac Partners DC, Monthly Legislative Report, December 2017

F. Potomac Partner DC, Monthly Legislative Report, January 2018

Prepared by:

Dustin Sifford
Senior Government Relations Representative,
External Affairs
(714) 560-5389

Approved by:

Lance M. Larson
Executive Director,
External Affairs
(714) 560-5908

Congress of the United States
Washington, DC 20515

December 20, 2017

The Honorable Elaine L. Chao, Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, S.E,
Washington, DC 20590

Dear Secretary Chao:

As members of the Orange County California Congressional delegation, we are writing in support of the Orange County Transportation Authority's (OCTA's) request for the Department of Transportation (DOT) to enter into a Full Funding Grant Agreement (FFGA) for the Santa Ana to Garden Grove Streetcar project (OC Streetcar Project) as provided for in the Capital Investment Grant (CIG) program, administered by the Federal Transportation Administration (FTA). This $299.34 million project will allow significant economic investment nationwide, generating an estimated 6,500 jobs and considerable contracting opportunities for the private sector.

OCTA urgently needs the federal government's FFGA commitment in order to provide timely funding for critical upcoming Project activities and meet a projected opening date of December 2020. Construction Management and Quality Assurance Management contracts have been awarded and are underway. OCTA also has several planned contract awards and advertisements for vehicles, construction and operations and maintenance which must be awarded to meet the delivery target. A delay in the FFGA will slow these activities and create uncertainty to private sector cooperation, adding additional costs to the project. In addition, no committed federal or state funding for the project can be accessed without a FFGA between OCTA and FTA.

While a publically led project, the OC Streetcar Project has numerous private sector project stakeholders that are committed to the goal of improving America's infrastructure as efficiently and as quickly as possible. OCTA has a long-held Board policy to involve private contractors to the maximum extent feasible as part of their construction and operations activities. Private contractor employees make up over 91 percent of the current project workforce to date. All future project construction activities will be undertaken by private construction firms. The OCTA Board has also determined that the project operation and maintenance will be privately contracted.

We urge you to give this request for a FFGA for the OC Streetcar Project your full and fair consideration. This critical addition to America's transit infrastructure network is good for transportation and the economy. We look forward to any further discussion you may want regarding the merits of this project.

Sincerely,

Ed Royce
Congressman Ed Royce, CA-39

J. Luis Correa
Congressman Lou Correa, CA-46

Mimi Walters
Congresswoman Mimi Walters, CA-45

Alan Lowenthal
Congressman Alan Lowenthal, CA-47

Congressman Darrell Issa, C-49

Cc: Jane, Williams, FTA
Matthew Welbes, FTA

November 29, 2017

The Honorable Paul D. Ryan
Speaker of the House of Representatives
H-232, United States Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, D.C. 20510

RE: Transportation-Related Concerns with Tax Reform Proposals

Dear Mr. Speaker and Leader McConnell:

On behalf of the undersigned transportation agencies in Southern California, we are writing to express our significant concerns with both the House and Senate tax reform proposals, as they relate to transportation. Each version of the bill, unless offset by additional future revenues, could greatly increase the deficit, which could threaten a potential infrastructure package as well as funding levels in future surface transportation legislation. In addition, neither proposal includes a long-term fix for the Highway Trust Fund's structural revenue deficit despite bipartisan support for its inclusion in a tax reform bill. We respectfully urge you and your colleagues to consider the negative ways in which this bill may affect the transportation industry, including the specific provisions discussed in detail below.

Private Activity Bonds:

Private Activity Bonds (PABs) are debt instruments that raise capital for revenue-generating highway and freight transfer projects. PABs allow a private project sponsor to benefit from the lower financing costs of tax-exempt municipal bonds. The House proposal would repeal the tax incentive for PABs, reducing access to tax-exempt financing for facilities such as airports, sea ports, qualified highway or surface freight transfer facilities, and other eligible activities defined as private activity. The Senate version currently retains this important tax incentive.

PABs are considered a critical tool for many of the region's planned infrastructure investments. For example, planned investments at the Port of Los Angeles would be negatively impacted as tax-exempt financing plays a critical role in its Capital Improvement Plan, including $450 million in projects that could be funded by bond proceeds. Based on current rates, if the Port of Los Angeles issued $450 million of new PABs on a taxable basis, there would be an approximately $1 million additional cost per year over the life of the bonds.

Tax-Exempt Advance Refunding Bonds:
The House and Senate bills both call for the elimination of the tax incentive for the advance refunding of bonds. Advance refunding bonds are debt instruments that allow an issuer to pay off another outstanding bond, often at a lower interest rate and with more favorable bond terms. Taxing the interest earned on advance refunding bonds limits the ability of transportation agencies to utilize this unique financial tool, which makes infrastructure projects in Southern California more dependent on federal funding.

Over the past five fiscal years, Los Angeles County Metropolitan Transportation Authority has advance refunded $313.8 million of bonds for a $40.3 million of interest savings. Riverside County Transportation Commission plans to execute an advance refunding on $410 million in bonds, which the agency anticipates would save $39 million.

The proposed changes to advance refunding bonds would make it more difficult, and likely more expensive, for our agencies to refinance bonds. We would be forced to either wait for years to see if interest rates remain low or refinance the outstanding bonds on a more expensive taxable basis. Should the current versions of the tax reform proposals be adopted into law, transportation agencies would face additional barriers to taking advantage of interest rates that could lower funding for actual transportation improvements.

Commuter Tax Benefit:
Current law treats the cost of commuting to work on public transportation as a tax-free fringe benefit that can be provided by an employer or utilized as a pre-tax payroll deduction. The current tax reform proposals remove the employer deduction for transportation fringe benefits, a key incentive for employers to offer transit benefits to employees.

In Southern California, over 340 companies utilize the employee commuter tax benefit exclusion and employer deduction to offer tickets and passes to their employees as a transit benefit. These tickets connect thousands of Southern Californians with access to our transit and bus systems, many of which may not have access without these benefits. Specifically, for Metrolink, participation in this program represents almost 20% of the system's revenues. Supporting an employee's commute to work provides substantial savings to both the employer and the employee. As such, we ask for your support for this tax benefit, which is vital to Southern California's public transportation network.

Alternative Fuel Benefits:
Unfortunately, the House and Senate tax overhauls do not extend the alternative fuels and related infrastructure tax credits that expired on December 31, 2016. A permanent extension would support the long-term energy security of our nation and provide certainty for our nation's transit agencies fueling their fleet with compressed (CNG) or liquefied (LNG) natural gas. Failure to renew these credits will discourage future investment in CNG and LNG vehicles and the associated infrastructure. We also support the inclusion of electric and hybrid-electric vehicles within eligible uses, and urge you to advocate for their inclusion within the extension of these important tax credits.

Conclusion:
Thank you for taking into consideration our concerns relating to private activity bonds, tax-exempt advance refunding bonds, the commuter tax benefit, and alternative fuel benefits. We urge the Congress to use this opportunity to reform the tax code to encourage greater investment in our nation's infrastructure, not to discourage it.

Sincerely,

Hasan Ikhrata
Executive Director
Southern California Association of Governments

Mark Baza
Executive Director
Imperial County Transportation Commission

Phillip A. Washington
Chief Executive Officer
Los Angeles County Metropolitan Transportation Authority

Arthur T. Leahy
Chief Executive Officer
Southern California Regional Rail Authority

Darrell Johnson
Chief Executive Officer
Orange County Transportation Authority

Anne E. Mayer
Executive Director
Riverside County Transportation Commission

Kim Kawada
Chief Deputy Executive Director
San Diego Association of Governments

Ray Wolfe
Executive Director
San Bernardino County Transportation Authority

Darren M. Kettle
Executive Director
Ventura County Transportation Commission

cc: Hon. Dianne Feinstein, United States Senator
Hon. Kamala Harris, United States Senator
Hon. Kevin McCarthy, House Majority Leader

ATTACHMENT C

THE WHITE HOUSE
Office of the Press Secretary
FOR IMMEDIATE RELEASE
January 30, 2018

PRESIDENT DONALD J. TRUMP WILL REBUILD AMERICAN INFRASTRUCTURE AND FORGE A PATH TOWARDS GREATER PROSPERITY

"As we rebuild our industries, it is also time to rebuild our crumbling infrastructure." – President Donald J. Trump

AMERICA'S INFRASTRUCTURE NEEDS HELP: American infrastructure has fallen behind due to years of inaction and a broken permitting system.

- The United States ranks tenth in the world in terms of quality of overall infrastructure, according to the World Economic Forum.
- One out of every five miles of U.S. highway pavement is in poor condition.
- Americans spent an estimated 6.9 billion hours delayed in traffic in 2014, or 42 hours per driver.
- One third of America's bridges are 50 years or older.
- There are an estimated 240,000 water main breaks every year in the U.S.
- Red tape has held back American infrastructure investment.
    - The median time to complete an environmental review process of complex highway projects is at least 7 years, according to a 2014 report by the Government Accountability Office (GAO).

REBUILDING AMERICA: President Donald J. Trump's plan will renew our country's once-great infrastructure and help build a more prosperous future for all Americans.

- President Trump's proposal will generate at least $1.5 trillion in infrastructure investment over the next decade.
    - This investment in American infrastructure will raise wages and improve quality of life for the American people.
- President Trump is putting forward a long-term solution that builds off of strong partnerships between Federal, state, tribal, and local authorities.
    - Half of the new infrastructure funds would go towards incentivizing new state and local investments in infrastructure.
    - President Trump's plan will empower state and local authorities to prioritize infrastructure projects based on their community's needs.
- This plan will eliminate unnecessary redundancies and inefficiencies in the regulatory and permitting process that are holding back American infrastructure development.

- The President's plan will address the infrastructure needs of rural America.
  - A quarter of the Federal funds will be dedicated to addressing rural infrastructure needs prioritized by state and local leaders.
  - These funds will go towards rebuilding roads, providing clean water to rural families and businesses, expanding broadband access, and supplying affordable, reliable power.
- President Trump's proposal will encourage the development of new, transformative infrastructure projects.

BUILDING OFF OF YEAR ONE: President Trump will continue to build off of the action his Administration took in its first year to improve American infrastructure.

- On August 15, 2017, President Trump signed an Executive Order to streamline the environmental review and permitting process for major infrastructure projects.
  - The Executive Order established a two-year goal for the environmental review process.
- In his first year in office, President Trump approved key infrastructure projects such as the Keystone XL and Dakota Access pipelines.
- President Trump's Rural Prosperity Task Force released a report detailing recommendations as to how the Administration can promote a more prosperous future for rural America.
- On January 8, 2018, President Trump signed an Executive Order on Streamlining and Expediting Requests to Locate Broadband Facilities in Rural America.
- President Trump's Department of Agriculture (USDA) has already begun investing in infrastructure projects in rural America.
  - On January 19, 2018, the USDA announced it is awarding 72 grants totaling $23.6 million for equipment that uses broadband internet to increase access to educational and health services for rural Americans.
  - President Trump's Department of Agriculture has announced that it will invest more than $200 million to help improve broadband access in rural areas.
  - In FY 2017, the USDA invested more than $40 million in infrastructure improvement projects in rural communities.

###

ATTACHMENT D

Potomac Partners DC

OCTA

Monthly Legislative Report – November 2017

November Advocacy Meetings

Department of Transportation; Federal Transit Administration (FTA) – OCTA CEO and Board Members met with senior policy makers in the Federal Transit Administration (FTA) to discuss the OC Streetcar project and next steps for a Full Funding Grant Agreement (FFGA). They discussed the project's economic impact and how it will create an estimated 6,500 jobs nationwide and provided updated info-graphics regarding the project's highlights and impacts.

Department of Transportation; Office of the Secretary & Build America Bureau – We met with senior staff from the Office of Secretary and Deputy Assistant Secretary for Policy and the acting director of the the Build American Bureau to discuss feedback from OCTA's TIFIA loan process and some potential lessons learned. We also discussed progress on the 405 and the recent discussions we have had regarding the OC Streetcar and the need for a timely FFGA. We also briefly discussed the upcoming infrastructure bill that the staff members are preparing to roll out in 2018.

Senate Committee on Banking, Housing, and Urban Affairs – We met with Majority and Minority Professional Staff on the Senate Banking Committee to discuss the OC Streetcar and the need for a timely FFGA at DOT. We discussed next steps at FTA and the feedback the Senate Banking staff had received from the FTA regarding the OC Street Car's procurement status.

Chairman Sam Graves (R-MO) – We met with Congressman Sam Graves and his senior staff to discuss the OC Streetcar and the need for a FFGA. We discussed project milestones and the need to receive a timely decision from FTA regarding the FFGA.

Chairman Mario Diaz-Balart (R-FL) – We met with Congressman Diaz-Balart and his staff to discuss the OC Streetcar and the status of the Full Funding Grant Agreement (FFGA) at the Federal Transit Administration (FTA). We also discussed FY18 appropriations and his commitment to continue funding the CIG program as well as his support for the OC Street Car despite any White House Budget request to reduce the program.

Chairman Ed Royce (R-CA) – We met with Congressman Royce and his staff to give them an update on the OC Streetcar. We discussed support for an FFGA for the OC streetcar. We also discussed the timeline for a budget and appropriations deal in the House for FY18.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal to discuss the OC Streetcar and the need for a FFGA at FTA. We discussed the need for an agreement at FTA in order to meet project deadlines and reduce costs. We also discussed the far reaching impact of this important transportation project.

Senator Dianne Feinstein (D-CA) – We met with senior staff in Senator Feinstein's office to discuss the OC Streetcar and the need for a timely approval of a FFGA at DOT. We discussed support for the CIG program and FY 18 Appropriations status.

Senator Kamala Harris (D-CA) – We met with senior staff in Senator Harris' office to discuss the OC Streetcar and the need for a timely approval of a FFGA at DOT. We discussed support for the CIG program.

Congressman Darrell Issa (R-CA) – We met with Congressman Issa's staff to follow-up on the need for support of the Capital Investments Grant (CIG) Program, and specifically support for a FFGA for the OC Streetcar. We discussed funding legislation in the House THUD bill for the CIG program.

Congressman Lou Correa (D-CA) – We met with Congressman Correa to discuss the OC street car and the CIG program. We discussed the OC Streetcar timeline and coordination with other members of the OC delegation in the House.

Congresswoman Napolitano – We met with Congresswoman Napolitano and her staff to continue our discussion on the Aviation Fuel Tax issue and the amendment that will be offered by Congressman Lowenthal. We also discussed the hearing held by the House Subcommittee on Highways and Transit. We also discussed the status of the OC Streetcar.

Chairman Jeff Denham (R-CA) – We met with Congressman Denham's senior staff to continue our discussion regarding the upcoming infrastructure bill and the inclusion of possible incentives for P3 projects and private investments in public transportation and infrastructure projects.

Congressman Ken Calvert (R-CA) – We met with staff in Congressman Calvert's office to discuss FY18 appropriations and budget and the CIG program. We also discussed the preservation of the Commuter Tax Benefits.

Tax Reform & Appropriations

On November 16th, the House passed a sweeping $5.5 trillion tax bill (H.R. 1) by a vote of 227-205. The legislation would cut the corporate tax rate from 35% to 20%, sets the top small business rate at 25% for pass-through entities, and would double the standard deduction while reducing the individual tax brackets from 7 to 4. The bill would also repeal the state and local income tax deduction as well as the tax-exempt status for Private Activity Bonds (PABs).

Meanwhile the Senate ha also been working to pass their own version of tax reform amending HR 1 that would still protect PAB's tax exemptions. Needless to say, the Senate bill has been modified numerous times throughout the month as Senate Republican Leadership worked to ensure the majority would have enough votes to pass the legislation. The recent version (that many assume has already been modified again) as an amendment to HR 1 can be found HERE. A side-by-side comparison of House and Senate proposal that the time of the writing this report is as follows:

Rule	Current Law	House bill	Senate plan
Corporation Top Rate	35%	20% flat rate beginning in 2018	20% flat rate beginning in 2019
Passthroughs	39.6% top rate	25% flat rate on a portion of income for certain types of passthroughs	17.4% deduction for income of certain types of passthroughs. Expires 2025
Individual Brackets and Rates	7 Brackets; 39.6% top rate	4 Brackets: 12, 25, 25, and 39.6%. No Expiration	7 Brackets: 10, 12, 22, 24, 32, 35, 38.5%. Rates expire after 2025
Alternative Minimum Tax	Separate tax calculation on some returns	Repeal	Suspend for individuals through 2025; repeal for corporations
Carried interest	Capital gains rate on certain investment manager income	Assets would have to be held for three years	Assets would have to be held for three years
Business Expensing	Depreciated over time	Immediate 100% expensing after Sept. 27, 2017 and before Jan. 1, 2023	Immediate 100% expensing after Sept. 27, 2017 and before Jan. 1, 2023
Business Interest	Deductible	Limit to 30% of adjusted taxable income for most businesses with average gross receipts greater than 25M	Limit to 30% of adjusted taxable income for most businesses with average gross receipts greater than 15M
Bonds	Interest on state and local bonds isn't taxable	End exclusion for private activity bonds (PABs) and advance refunding bonds	End exclusion for advance refunding bonds
Electric Car Credit		Repeals tax credit for electric vehicles	No change
In-Service Pension Distributions		Permits in-service pension distributions at age 59½	No Change
Healthcare Individual Mandate		No change	Repeals individual mandate
Repatriation		Repatriates $293 Billion of foreign corporate earnings	Repatriates $184 Billion of foreign corporate earnings
Deduction for Commuter Benefits		Repeals employer deduction for transportation benefits	Repeals employer deduction for transportation benefits; repeals bicycle incentive for individuals
Highway Trust Fund		No solution for long-term deficit	No solution for long-term deficit

No Democrats are supporting the bill giving Republicans a narrow margin for passage. Using the budget reconciliation process, the bill will not be subject to filibuster and will only need 51 votes for floor passage. The current party divide in the Senate is 52 Republicans and 46 Democrats with 2 Independents that vote with Democrats (52-48).

Senator Susan Collins (R-ME) and others met with President Trump at the end of the month to discuss concerns with the tax bill such as the expiration of tax cuts for individuals after 10 years (called sunsets) and the repeal of the individual health care mandate. Senator Collins was one of the three Senate Republicans to vote against the repeal of the Affordable Care Act over the Summer. During that meeting, President Trump indicated to the Senator that he would support the Alexander-Murray bill, a bipartisan health care reform effort that would stabilize the individual healthcare market and potentially pave the way for Sen. Collin's support for a modified tax bill.

Regarding the FY 18 appropriations, much of what happens next will depend on the fate of tax reform in the Senate this week. The government is currently being funded by a Continuing Resolution (CR) that will expire on December 8th. House appropriators have asked for additional time to finalize an "omnibus" appropriations bill that would match with the projected topline spending levels of an FY18 budget deal that is currently being negotiated. Therefore, it seems likely that Congress will pass another short-term CR to avoid a government shutdown. However, President Trump indicated that he may not sign any new spending package that do not include funding for a southern border wall or other White House priorities. Democrats are also pushing for an immigration fix for DACA recipients in the must-pass Appropriations omnibus.

Notable Congressional Hearings

On Tuesday, November 28th the House T&I Subcommittee on Transportation and Protective Security met to hear stakeholder perspectives concerning security threats facing mass transit systems. In his opening statement, Chairman John Katko (R-NY) spoke about the unique challenges mass transit systems face in screening passengers, closing resource gaps, and targeting assistance from the Department of Homeland Security. The Homeland Security Committee held a full committee hearing to discuss preventative security for transportation systems on November 8th. Chairman Katko told witnesses that transportation providers needed to assess their ability and readiness to detect and disrupt threats on all surface transportation systems. He also stated that surface transportation modes serve over 10 billion riders annually compared to 800 million aviation passengers per year, highlighting the volume of passengers that use these systems. Witnesses spoke about the difficulties of securing such a large number of passengers in publicly accessible facilities traveling on advertised predictable schedules. Witnesses also expressed their concern over the growing number of terrorist attacks worldwide taking place at mass transit system facilities. They asked for increased federal investment in public transportation security as well as increased personnel support from the Department of Homeland Security.

During the hearing, Ranking Member Bonnie Watson Coleman (D-NJ) formally introduced a bill (HR 4474) that would increase funding for transit security grants to $400 million, and allows transit stations to maintain TSA VIPR teams and hire more local police. In addition to transit grant funding, Coleman's bill would direct TSA to maintain 60 VIPR teams for surface transportation security, increase the number of bomb-sniffing teams and expand the law enforcement officer reimbursement program, currently designated to airports only, to transit and rail stations, among other hubs.

On November 29th, the Natural Resources Committee held an oversight hearing to discuss "*Modernizing NEPA for the 21st Century*". A major topic of concern and discussion was the role of the NEPA process in delaying large infrastructure projects. Some members questioned the witnesses as to how and why the NEPA process can drive project costs up by millions of dollars and whether or not the process is protecting the environment effectively enough to justify the costs. Witnesses testified that a considerable barrier to NEPA effectiveness is caused by unclear jurisdiction and environmental goals between agencies (e.g. Fish and Wildlife has a different agenda than the Army Corps of Engineers) and that there needs to be a designated decision maker to help merge these goals in a timely manner. While Democrats on the committee voice strong support for the law, there was still a considerable amount of concern regarding NEPA's costs and delays on large infrastructure projects.

Senate Confirmations Update

This month the Senate confirmed two major nominees to the Department of Transportation. Steven Gill Bradbury, of Virginia, was confirmed to be General Counsel of the Department of Transportation by a vote of 50-47. Derek Kan, a former Lyft executive from California, was also confirmed to be Under Secretary of Transportation for Policy by a vote of 90-7.

ATTACHMENT E

Potomac Partners DC

OCTA

Monthly Legislative Report – December 2017

December Advocacy Meetings

Chairman Mario Diaz-Balart (R-FL) – We met with Chairman Diaz-Balart and his staff to follow-up on our discussions late last month regarding the OC Streetcar and the need for an FFGA in early 2018. We also discussed the FY18 appropriations process and new topline spending levels to be expected in January with the planned omnibus appropriations bill.

Congressman Ed Royce (R-CA) – We met with Congressman Royce and his staff to give them an update on the OC Streetcar. We discussed the current timing for an FFGA for the OC streetcar and FY18 Appropriation funding for the New Start program at FTA. We facilitated an OC delegation support letter to Secretary Chao regarding the OC Street Car FFGA. Chairman Royce's office is also reaching out to senior DOT staff to request a status from the FTA.

Chairman Sam Graves (R-MO) – We met with Congressman Sam Graves and his staff to follow-up on our discussion regarding our priorities for the new infrastructure legislation and the White House's infrastructure guidelines scheduled for release in January. We discussed funding for the OC Street Car and the status of the FFGA at FTA. W also shared with his staff our OC delegation support letter to Secretary Chao. We also discussed the infrastructure package and the administration's statement regarding a potential gas tax increase in the next infrastructure bill.

Congresswoman Napolitano – We met with Congresswoman Napolitano and her staff to continue our discussion on the Aviation Fuel Tax issue. We also discussed funding for the CIG program in the FY 18 Appropriations bill and the status of the OC Street Car- the next New Start project in the pipeline.

Congressman Alan Lowenthal (D-CA) – We met with staff in Congressman Lowenthal's office to discuss the OC Streetcar and the delegation support letter that was circulated this month. We also continued our discussion regarding the upcoming infrastructure bill and the inclusion of provisions that would streamline transportation financing. We also discussed the next steps for the FAA Reauthorization in the House.

Congressman Lou Correa (D-CA) – We met with Congressman Correa's staff to discuss the OC street car and the CIG program. We discussed the OC Streetcar timeline and coordination with other members of the OC delegation in the House.

Congressman Darrell Issa (R-CA) – We met with Congressman Issa's staff to follow-up on the need for support of the Capital Investments Grant (CIG) Program, and specifically support for a FFGA for the OC Streetcar.

Chairman Jeff Denham (R-CA) – We met with Congressman Denham's senior staff to continue our discussion regarding the upcoming infrastructure bill and we followed up on previous discussions regarding the Capital Investment Grant program at FTA.

Senate Banking Committee – We met with senior staff on the Senate Banking Committee's minority staff to continue our discussion regarding the FTA's New Starts report, report language in the FY18 Appropriations bill for CIG projects, and the OC Streetcar. We also discussed the timing of an FFGA for OC Street Car based on proposed passage of a full funding FY18 appropriations bill.

House Transportation and Infrastructure Committee – We continue to meet with key staff at the House T&I Committee to discuss the timing and contents of the infrastructure bill, and the inclusion of key priorities. We also discussed streamlining provisions being discussed for President Trump's infrastructure package and the inclusion of new financing options such as P3s. We also discussed plans for any hearing regarding PTC implantation next year.

Congressman Ken Calvert (R-CA) – We met with staff in Congressman Calvert's office to discuss FY18 appropriations and budget and CIG funding in the year end appropriations legislation.

Senator Kamala Harris (D-CA) – We met with Senator Harris' staff to discuss support for the CIG program and the expected timing for the OC Streetcar's FFGA. We also discussed PAB's in the tax reform legislation and budget negotiations in the Senate.

Senator Dianne Feinstein (D-CA) – We met with staff in Senator Feinstein's office several times throughout the month to discuss FY18 appropriations and the projected timing of an FFGA for the OC Streetcar.

Tax Reform

This month the focus was on passing tax reform (HR 1 – The Tax Cuts and Jobs Act). The full bill can be found HERE. The Conference Committee Report can be found HERE. The House and Senate each passed their own version of tax reform on September 16th and December 2nd respectively. After Senate passage, House and Senate leadership from both parties appointed members to a conference committee to negotiate differences between the two versions. The Conference Committee members included:

HOUSE REPUBLICANS

Ways and Means Committee
- Conference Chair: Chairman Kevin Brady (R-TX)
- Rep. Devin Nunes (R-CA)
- Rep. Peter Roskam (R-IL)
- Rep. Diane Black (R-TN)
- Rep. Kristi Noem (R-SD)

Natural Resources Committee
- Chairman Rob Bishop (R-UT)
- Rep. Don Young (R-AK)

Energy and Commerce Committee
- Rep. Fred Upton (R-MI)
- Rep. John Shimkus (R-IL)

<u>HOUSE DEMOCRATS</u>

House Committee on Ways and Means
- Congressman Richard Neal (D-MA), Ranking Member
- Congressman Sander Levin (D-MI)
- Congressman Lloyd Doggett (D-TX)

House Committee on Natural Resources
- Congressman Raúl Grijalva (D-AZ), Ranking Member

House Committee on Energy and Commerce
- Congresswoman Kathy Castor (D-FL)

<u>SENATE REPUBLICANS</u>

Senator Tim Scott (R-SC)
Senator Rob Portman (R-OH)
Senator Pat Toomey (R-PA)
Senator John Thune (R-SD)
Senator John Cornyn (R-TX)
Finance Committee Chairman Orrin Hatch (R-UT)
Budget Committee Chairman Mike Enzi (R-WY)
Natural Resources Committee Chairwoman Lisa Murkowski (R-AK)

<u>SENATE DEMOCRATS</u>

Senator Ron Wyden (D-OR)
Senator Bernard Sanders (I-VT)
Senator Maria Cantwell (D-WA)
Senator Debbie Stabenow (D-MI)
Senator Robert Menendez (D-NJ)
Senator Tom Carper (D-DE)
Senator Patty Murray (D-WA

These negotiations were mostly conducted behind closed doors among Republican conferees. The conference committee held a single public hearing as required by parliamentary rules, which was primarily used for political posturing with Democrats.

One difference between the two bills was the treatment of Private Activity Bonds (PABs). The initial House version would have repealed their tax exclusion status outright. The Senate version made no change. According to staff we spoke to, House negotiators were looking to reduce the statutory uses for PABs. During negotiations, we met with senior staff with most every member of the conference committee to ensure the preservation of all PAB uses. Ultimately the final bill did not change the tax exclusion or uses/caps for PABs. With regard to commuter tax benefits both the House and Senate bill repealed the employer deduction for transportation benefit. The employee commuter tax benefits, however, was maintained.

The final version of the bill was sent to the President for signing after passing the House with a vote of 227-203. Two members of the OC delegation originally did not support the bill, Congressman Darrell Issa (R-CA) and Congressman Dana Rohrabacher, however, after a re-vote on the bill a day later both were "yes" votes.

A preliminary chart showing both the House and Senate versions compared to the final bill is included below:

	House Bill	Senate Bill	Final Bill
Highway Trust Fund	No solution for long-term deficit	No solution for long-term deficit	No Solution
Private Activity Bonds	Taxes interest earned on private activity bonds	No change	No change
Advance Refunding Bonds	Taxes interest earned on advance refunding bonds	Taxes interest earned on advance refunding bonds	Taxes interest earned on advance refunding bonds
Deduction for Commuter Benefits	Repeals employer deduction for transportation benefits	Repeals employer deduction for transportation benefits; repeals bicycle incentive for individuals	Repeals employer deduction for transportation benefits; repeals bicycle incentive for individuals
Electric Car Credit	Repeals tax credit for electric vehicles	No change	Maintains Electric Car Credit
In-Service Pension Distributions	Permits in-service pension distributions at age 59½	No Change	No Change
Healthcare Individual Mandate	No change	Repeals individual mandate	Repealed

After the tax bill was sent to the White House, Senator Orrin Hatch—Chairman of the Senate Finance Committee—introduced the Committee's "Tax Extender" legislation that would extend the alternative fuel tax credit (language for the alternative fuel tax is included below). There has been talk of attaching these tax extenders to the end of the year "must-pass" bills like the Continuing Resolution. However, that plan was scuttled after the House quickly prepared a clean CR until Jan 19th that the House and Senate passed before adjourning for the Holidays. It is possible that this legislation will move early in 2018 and could be attached to the either the tax reform tech correction bill or the pending omnibus that Congress hopes to pass before the current CR expires on January 19th.

SEC. 307. EXTENSION OF BIODIESEL AND RENEWABLE DIE10 SEL INCENTIVES.

(a) INCOME TAX CREDIT —

(1) IN GENERAL — Subsection (g) of section 13 40A is amended by striking "December 31, 2016" and inserting "December 31, 2018".

(2) EFFECTIVE DATE —The amendment made 16 by this subsection shall apply to fuel sold or used after December 31, 2016.

(b) EXCISE TAX INCENTIVES —

(1) IN GENERAL —Section 6426(c)(6) is amended by striking "December 31, 2016" and inserting "December 31, 2018".

(2) PAYMENTS —Section 6427(e)(6)(B) is amended by striking "December 31, 2016" and inserting "December 31, 2018".

(3) EFFECTIVE DATE —The amendments made by this subsection shall apply to fuel sold or used after December 31, 2016.

(4) SPECIAL RULE FOR 2017.—Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2017, and ending on December 31, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

FY 18 Appropriations Update

On December 21st Congress passé a stopgap spending legislation to keep all federal agencies funded through January 19th at FY17 levels. Lawmakers needed to pass this funding legislation by Friday to avert a government shutdown. This bill also includes some extra funding for disaster aid, and missile defense programs along with repairs to the Navy destroyers that were damaged in collisions this year. The extra emergency defense spending — which totals just over $4.6 billion — was needed to attract the support of defense hawks for the continuing spending resolution after House Republican leaders abandoned plans to include a full-year Pentagon funding bill in a previous CR draft.

The measure also would delay mandatory across-the-board cuts to defense and domestic spending slated to take place in January, which benefits key transportation programs like the CIG program.

A summary of the bill provisions can be found on the rules committee website here.

With a CR now in place, congressional appropriators hope to complete their work on an "Omnibus" spending bill in January.

Positive Train Control (PTC) Discussion in Congress

After the recent Amtrak train derailment in Washington State, Congress has begun discussing PTC implementation again. The initial deadline for freight and passenger railroads to have positive train control installed on their locomotives and tracks is just a year away, and many commuter railroads are far behind. Some Congressional Members are concerned some may not comply in time due to a number of reasons that include funding scarcities, the inherent complexity of the technology (and the small number of firms that can help agencies install it) and some railroads' failure to prioritize its installation. We are hearing that Congress will likely conduct oversight of the PTC implementation process early next year, and the Senate Commerce Committee is already planning a hearing for sometime next month.

The FRA's most recent report on PTC implementation for 2017 can be found here: https://www.fra.dot.gov/app/ptc/

The Senate has yet to confirm a new FRA administrator, which many on Capital Hill expect to happen sometime in January in order to help address the ongoing PTC implementation issues.

ATTACHMENT F

Potomac Partners DC

Monthly Legislative Report – January 2018

January Advocacy Meetings

Senate Commerce, Science and Transportation Committee – We facilitated a meeting with Professional Staff from the Senate Subcommittee on Surface Transportation. During the meeting we discussed the status of the OC Streetcar and we briefed the staff on the recent discussions with the Federal Transit Administration (FTA) on the status of the Full Funding Grant Agreement (FFGA) and the Capital Investment Grant (CIG) program. We also discussed the Trump Infrastructure bill and the various proposals that were included in an "unofficial" funding principles document, which was released earlier this month.

Senate Banking, Housing, and Urban Affairs Committee – We facilitated a meeting with Professional Staff from the Senate Subcommittee on Housing, Transportation, and Community Development. During the meeting we discussed the OC Streetcar and the status of an FFGA at the Federal Transit Administration (FTA). We gave an update on the project's status and discussed the recent Management Capacity/Capability (MCC) review, which we shared with them after the meeting. We also discussed OTCA's strong history of delivering projects on-time and under-budget, successfully managing billions of dollars in transportation infrastructure projects.

Senator Feinstein (D-CA) – We facilitated a meeting with senior transportation staff in Senator Feinstein's office to give an update on the OC Streetcar. We discussed the procurement process for the streetcars and the positive impact the project will have on job creation. We also discussed the favorable MCC review by the Project Management Oversight Contractor (PMOC) and the need for an expedited FFGA by the FTA. Senate Feinstein is supportive of the project and willing to weigh-in with the FTA and press them for a FFGA.

Chairman Mario Diaz-Balart (R-FL) – We facilitated a meeting with Congressman Mario Diaz-Balart, Chairman of the House Appropriations Subcommittee on Transportation, Housing, and Urban Development. During the meeting we discussed the positive review of OCTA's ability to manage the project. We asked the Chairman to weigh in with the FTA on the FFGA. We also briefly discussed the possible return of congressionally directed spending (earmarks).

Federal Transit Administration – Along with OCTA senior staff and Chairwoman Bartlett, we met with the Acting Administrator of the Federal Transit Administration, Jane Williams, to discuss the OC Streetcar. We provided the Acting Administrator with updated materials regarding OCTA's streetcar procurement process and discussed the timeline for an FFGA for the project. We discussed the project's budget, local funding sources, and how costs will continue to rise with a delayed FFGA. We discussed how OCTA has expended nearly $30 million to date on the project and how without an FFGA, pending contracts for the procurement of vehicles, construction and operations and maintenance could be delayed, leading the project to incur greater costs.

Congressman Lou Correa (D-CA) – We facilitated a meeting with Congressman Correa and his staff to discuss the OC Streetcar and the need for an expedited FFGA at the FTA. We provided the Congressman with updated materials regarding the project's progress and discussed the favorable review of OCTA's management capabilities as noted by the MCC report. We discussed how OCTA has met every statutory and administrative requirement necessary to advance the project and that while the project has committed funding from local, state and federal source, OCTA is unable to access any further federal funding without an FFGA. We discussed the procurement process and how without an FFGA, pending contracts could be delayed.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal and his staff to discuss the OC Streetcar. Congressman Lowenthal serves on the House Transportation and Infrastructure Committee. During the meeting we also discussed the favorable review of OCTA's management capabilities in the MCC review. We spoke about the need for an expedited FFGA at the FTA. We discussed the $30 million OCTA has expended on the project and how without an FFGA pending contracts for procuring the vehicles, management and construction could be delayed.

Chairman Sam Graves (R-MO) – We facilitated a meeting with Congressman Sam Graves and his staff to discuss the OC Streetcar project. Congressman Graves is the Chairman of the House Subcommittee on Highways and Transit. During the meeting we followed-up with previous discussions regarding the need for an expedited FFGA at the FTA. We also discussed the project's impact on national job creation and how the OC Streetcar is expected to produce 6,500 well-paid jobs nation-wide, 4,000 of which will be generated by an FFGA from the FTA. Chairman Graves committed to weighing-in on the OC Streetcar's FFGA status at the FTA.

Congressman Ed Royce (R-CA) – We facilitated a meeting for Chairwoman Bartlett with Congressman Royce and his staff to give them an update on the OC Streetcar. We discussed support for an expedient FFGA at DOT and gave the Congressman updated information regarding the project's timeline and expected testing dates. We also discussed the delegation support letter and next steps at the FTA. Congressman Royce will be meeting with the FTA to discuss the OC Streetcar FFGA and work on securing a definitive timeline for approval.

House Transportation and Infrastructure Committee – We met with senior staff on the House Transportation and Infrastructure Committee to discuss President Trump's upcoming infrastructure proposal. We discussed the unofficial funding principles outline. We also discussed the President's State of the Union address and when to we might see an official infrastructure proposal.

Congressman Ken Calvert (R-CA) – We met with staff in Congressman Calvert's office to discuss FY18 appropriations and budget and the possible return of congressionally directed spending in the FY19 Appropriations process.

FY18 Budget and Appropriations

The US Senate convened on January 3rd, 2018 to begin the 2nd session of the 115th Congress. The House convened on January 8th. As soon as Congress began session, the primary item on the legislative agenda in both chambers was the passage of an FY18 budget and legislation to fund the government beyond a January 19th deadline.

House and Senate leadership failed to reach a budget deal and propose a permanent appropriations package before the January 19th deadline, and on Thursday evening January 18th the House passed a Continuing Resolution (CR) (HR 195) along mostly partisan lines (230-197). Under normal circumstance the Senate and White House would have quickly passed the spending extension to avoid a government shutdown.

The Senate was unable to pass the House bill as Senate Democrats vowed to block any spending legislation that did not include protections for DREAMERs, undocumented immigrants that were brought into the US as children and who received special protections under Deferred Action for Childhood Arrivals (DACA). President Trump ended DACA in September of last year, giving Congress until March 2018 to find a legislative solution before DREAMERs would begin to be eligible for deportation.

Government funding officially lapsed at midnight on the 19th as Senate Democrats began a filibuster of the CR to protest the exclusion of DACA legislation. However, the shutdown did not last long. On Monday January 22nd the Senate convened to vote on HR 195 in order to end the three-day government shutdown after Senate Democrats accepted a promise from Senate Republicans that DACA legislation would be considered with due process. During the shutdown, a bipartisan group of Senators expressed optimism for a legislative DACA fix but said that it should not be attached to the budget and appropriations negotiations. The House also convened briefly on Monday night during a scheduled recess week to approve the bill. The President quickly signed the bill into law and all furloughed federal workers returned to work on Tuesday morning with the federal government now funded through February 8th.

Other provisions included in the CR:

- 6-year reauthorization of the Children Health Insurance Program (CHIP)
- Kevin and Avonte's law of 2017: This bill amends the Violent Crime Control and Law Enforcement Act of 1994 to revise and rename the Missing Alzheimer's Disease Patient Alert Program as the Missing Americans Alert Program and to reauthorize it through FY22.
    - The bill subjects grants under the Missing Americans Program to accountability provisions. DOJ's Office of Inspector General must conduct annual audits of selected grant recipients. The bill prohibits grants to nonprofit

organizations that hold money in an offshore account to avoid tax liability. It also limits the use of grants under this bill for conferences that use more than $20,000 in DOJ funds.

  - Additionally, it directs the Bureau of Justice to award grants to health care, law enforcement, or public safety agencies to develop tracking technology programs to locate missing individuals with dementia or children with developmental disabilities.

- 2-Year delay in implementation of Excise Tax on High-Cost Employer-Sponsored Health Coverage.
- 2-Year delay in implementation of Annual fee on health insurance providers.

With only a few legislative days before the next CR expires, none of the underlying policy issues that ostensibly led to the shutdown, such as immigration legislation to protect DREAMERs, will likely be addressed before the February 8th deadline. This dynamic could set Congress up for another potential shutdown. Closed-door negotiations between Senate Majority Leader Mitch McConnell and Senate Minority Leader Chuck Schumer are continuing. Nevertheless, we are hearing that the House could vote as early as Tuesday, February 6th on another Continuing Resolution to fund the government until March 22nd. Conservatives and defense hawks are threatening to oppose yet another short-term funding bill. House Democrats have refused to back stopgap measures without those immigration reform policies included.

Regarding congressionally directed spending (earmarks), a group of ten Senators introduced new legislation that would make the current moratorium on earmarks permanent. The bill, (The Earmark Elimination Act of 2018) would call for any earmarks to be stricken from pending legislation, amendments, and resolutions unless a waiver is approved by at least two-thirds of the Senate body. We will continue to track this legislation, however, we do not see this legislation gaining much momentum in the House, where a return to congressionally directed spending remains popular. House Rules Committee Chairman Pete Sessions (R-TX) has expressed support for reinstating earmarks for transportation and infrastructure as a trail program. President Trump also expressed his support for earmarks earlier this month.

With regards to the FY19 budget request, the White House is now planning to deliver its budget request to Congress on February 12th or later. It is possible we could see that budget release slip into March if another shutdown becomes likely.

Infrastructure Bill Update

On January 22nd, an unofficial document purporting to be a White House draft of the upcoming infrastructure proposal's "funding principles" (included at the end of this report) was released. Soon after, however, the White House deputy chief of staff Paul Teller said the document was not reflective of the administration's ultimate proposal to fix the country's crumbling roads and bridges and promised that the President would give more details during the State of the Union (SOTU) address with a more formal proposal coming in the next two to four weeks. Teller's report did not specify funding levels for White House proposal, but the White House has said on multiple occasions that they would like to committee $200 billion to leverage what Trump touted during the SOTU address as $1.5 trillion in total public/private financing. After the State of the Union Address (outlined below), the White House did say that the unveiling of the infrastructure proposal will be delayed again, partially due to the recent government shutdown.

It is also interesting to note that Congressman Bill Shuster (R-PA), Chairman of the House Transportation and Infrastructure Committee, brought up an increase in the gas tax to deal with the Highway Trust Fund (HTF) during an annual Republican Issues Conference in West Virginia on February 1st. The infrastructure-focused session included Transportation Secretary Elaine Chao, National Economic Council Director Gary Cohn, Senator John Barrasso (R-WY) and Senator John Thune (R-SD). Chairman Shuster noted that any user fee that would go straight towards it's set purpose, the highways and transit system. Shuster also said "[The infrastructure bill] has to be bipartisan to get it through the Senate, and if we want to attract Democrats in the House, we probably lose some Republican votes." Permit streamlining was also discussed during the session.

President Trump's State of the Union Address

On Tuesday, January 30th, President Trump gave his first State of the Union address of his Presidency. During the address President Trump outlined the legislative goals for his administration in 2018. President Trump touted the tax reform package that Congress passed at the end of last year. He also spoke about the upcoming infrastructure package that we have been tracking closely for Orange County. President Trump's remarks are as follows:

> "As we rebuild our industries, it is also time to rebuild our crumbling infrastructure. America is a nation of builders. We built the Empire State Building in just 1 year -- is it not a disgrace that it can now take 10 years just to get a permit approved for a simple road? I am asking both parties to come together to give us the safe, fast, reliable, and modern infrastructure our economy needs, and our people deserve.
>
> Tonight, I am calling on the Congress to produce a bill that generates at least $1.5 trillion for the new infrastructure investment we need. Every Federal dollar should be leveraged by partnering with State and local governments and, where appropriate, tapping into private sector investment -- to permanently fix the infrastructure deficit.
>
> Any bill must also streamline the permitting and approval process -- getting it down to no more than two years, and perhaps even one. Together, we can reclaim our building heritage. We will build gleaming new roads, bridges,

highways, railways, and waterways across our land. And we will do it with American heart, American hands, and American grit.

In addition, President Trump mentioned his Administration's goal to expand vocational education opportunities and increase funding for workforce development and job training.

> "We want every American to know the dignity of a hard day's work. We want every child to be safe in their home at night. And we want every citizen to be proud of this land that we love. We can lift our citizens from welfare to work, from dependence to independence, and from poverty to prosperity. As tax cuts create new jobs, let us invest in workforce development and job training. Let us open great vocational schools so our future workers can learn a craft and realize their full potential. And let us support working families by supporting paid family leave."

President Trump asked Congress to end the Defense Sequester, lower prescription drug prices, and to provide a path to citizenship for DREAMERs in exchange for border wall and Customs and Border Patrol funding. A link to the entire State of the Union Address can be found HERE.

Positive Train Control

At the end of last month, Secretary of Transportation Elaine Chao sent letters to all of the nation's Class I railroads, intercity passenger railroads, and state and local transit authorities urging the completion of Positive Train Control (PTC) implementation before the Congressional deadline on December 31st, 2018. A copy of the letters can be found HERE. In the letter, Secretary Chao expresses the importance of meeting congressionally approved milestones. She also outlined the FRA's and DOT's focus on safety-oriented rail initiatives this year. This letter comes after an Amtrak "Cascades" passenger train derailed near DuPont, Washington. National Transportation Safety Board (NTSB) investigators found that the train's derailment was caused by high speeds and human error and could have been prevented by PTC. The Senate Commerce Committee also plans to hold a hearing regarding PTC implementation at the end of February. The House T&I committee will likely follow suit sometime in March.

Congressional Retirements

On January 31st, Congressman Trey Gowdy (R-SC) announced that he will not run for reelection in 2018. Congressman Gowdy is another prominent House Republican to announce his retirement in recent weeks, including Orange County delegation member Congressman Ed Royce (R-CA). Congressman Darrell Issa (R-CA) also announced that he will not be running for reelection in CA-49. Other Republican Chairmen who have announced that they will not be running for reelection include:

- **Jeb Hensarling**, (R-TX) – House Financial Services Committee

- **Lamar Smith**, (R-TX) – House Science, Space and Technology Committee
- **Bob Goodlatte**, (R-TX) – House Judiciary Committee
- **Bill Shuster**, (R-PA) – House Transportation and Infrastructure Committee
- **Gregg Harper**, (R-MS) – House Administration Committee
- **Rodney Frelinghuysen**, (R-NJ) – House Appropriations Committee

Most notably is the unexpected retirement announcement by Congressman Rodney Frelinghuysen (R-NJ). Congressman Frelinghuysen is the Chairman of the House Appropriations Committee and his departure has already spurred a heated race for the Chairmanship. So far there are three Appropriators who have thrown their hats in the ring; Congressman Robert Aderholt (R-AL), Congresswoman Kay Granger (R-TX), and Congressman Tom Cole (R-OK).

Hearing: Building the Foundation for Surface Transportation Reauthorization

On Tuesday, January 14th the House Transportation and Infrastructure Committee held a hearing titled "Building the Foundation for Surface Transportation Reauthorization." Chairman Bill Shuster wanted to discuss the Committee's efforts to develop new legislation to reauthorize federal surface transportation programs. These programs were last authorized under the Moving Ahead for Progress in the 21st Century Act (MAP-21), which was signed into law in July 2012 and expires at the end of September. In his opening statement Chairman Shuster discussed the key principles that he wants to highlight in the bill, which include reducing regulatory burdens and increasing focus on freight mobility. He also spoke about the successes of MAP-21 that OCTA had impacted with the Breaking Down Barriers initiative, stating that it "reformed the project approval and delivery process for highway and public transportation projects, which allows projects to begin construction faster, maximizing the public investment and benefit." Testimony was heard from public officials including Governor of Oklahoma Mary Fallin and Atlanta Mayor Lawrence Hanley. They testified that surface transportation requires both a long-term vision and funding stability to provide for our nation's diverse mobility needs. We will continue to meet with Chairman Shuster and members of the committee in support of streamlining the environmental review process without impairing substantive environmental requirements.

Hearing: Securing Our Surface Transportation Systems

On Tuesday, January 30th the House Subcommittee on Transportation & Protective Security and the Subcommittee on Emergency Preparedness, Response, & Communication held a joint hearing titled "Securing Our Surface Transportation Systems: Examining the Department of Homeland Security's Role in Surface Transportation Technologies". This hearing continues the Committee's efforts to gain a solid understanding of the challenges facing surface transportation operators, industry stakeholders, and DHS components in their mutual goal of using technology to address the unique security threats of transit systems. The Subcommittees specifically examined how the Transportation Security Administration (TSA) and the Science & Technology Directorate collaborate to improve security capabilities and address identified needs. In his opening statement, Chairman John Katko (R-NY) said that security regulations, inspections, VIPR teams, and grants are only part of the solution and that these initiatives must be supplemented by the deployment of innovative security technologies to effectively reduce risk. The Subcommittees heard testimony from TSA security directors as well as security technology professionals. Witnesses spoke about recent terror attacks, implementing more advanced security technology, and how they are assessing transit system vulnerabilities to ensure that they can prevent future attacks.

Funding Principles

I. **Infrastructure Incentives Initiative:** encourages state, local and private investment in core infrastructure by providing incentives in the form of grants. Federal incentive funds will be conditioned on achieving milestones within an identified timeframe. ***Accounts for 50% of total appropriation.***

A. Applies to: surface transportation, airports, passenger rail, maritime and inland waterway ports, flood control, water supply, hydropower, water resources, drinking water facilities, storm water facilities, Brownfield and Superfund sites

B. Eligible entities: States or groups of states, Puerto Rico, U.S. territories, metropolitan planning organizations, units of local government or a group of local governments, special purpose district or public authority responsible for maintaining infrastructure facilities, public utilities, non-profits, tribal governments, multijurisdictional group of eligible entities, private entities with sponsorship from an eligible public entity.

C. Core infrastructure projects are eligible. The lead federal agency administering the initiative will define eligible costs and conduct audits to ensure funds are used appropriately.

D. The lead federal agency will solicit applications every 6 months. Criteria includes:

1. Dollar value of project (weighted at 10%)
2. Evidence supporting how applicant will secure and commit new, non-federal revenue to create sustainable, long-term funding (weighted at 50%)
3. Evidence supporting how applicant will secure and commit new, non-federal revenue for operations, maintenance and rehabilitation (weighted at 20%)
4. Updates to procurement policies and project delivery approaches to improve efficiency in project delivery and operations (weighted at 10%)
5. Plans to incorporate new technology (weighted at 5%)
6. Evidence to support how project will spur economic and social returns on investment (weighted at 5%)
   a. Calculated by multiplying the weighted score by the percentage of non-federal revenues used to fund the project
   b. Lookback period:

Years Passed	New Revenue Credit Score Multiplier
>3 years	0%
2-3	30%
1-2	40%
0-1	50%
After Jan. 2018	100%

E. Grant more than 10% of the amount available awards can't exceed 20% of total project cost. Any individual state can't receive more than 10% of the amount available.

II. **Transformative Projects Program**: makes available federal funding and technical assistance for innovative and transformative infrastructure projects based on competitive basis to viable projects unable to secure financing through private sector due to the uniqueness of the program. Applicable projects must be exploratory and ground-breaking ideas that have more risk than standard infrastructure projects but offer a larger reward profile. Covered sectors include: transportation, clean water, drinking water, energy, commercial space, and telecommunications. ***Accounts for 10% of total appropriation.***

A. Dept. of Commerce chairs administration of the program.

B. Eligible entities: States or groups of states, Puerto Rico, U.S. territories, metropolitan planning organizations, units of local government or a group of local governments, special purpose district or public authority responsible for maintaining infrastructure facilities, public utilities, non-profits, tribal governments, multijurisdictional group of eligible entities, private entities with sponsorship from an eligible public entity.

C. Funding tracks: *Applicants could apply for all or specific tracks.*

   1. Demonstration: funding provided for planning, construction, deployment and evaluation of demonstration trials. Can't be used for applied R&D activities but instead where a prototype is operated at or near full scale. *Federal funding may be used for up to 30% of eligible costs.*

   2. Project Planning: funding provided for final pre-construction activities – i.e. final design and engineering. Demonstration trial must have occurred and been successful. Must demonstrate construction would begin within a reasonable time frame. *Federal funding may be used for up to 50% of eligible costs.*

   3. Capitol Construction: funding provided for capital projects having independent utility and ready for intended use upon completion. *Federal funding may be used for up to 80% of eligible costs.*

      a. Under this track, applicant required to enter into a financial partnership agreement with the Federal Government requiring that if a project begins to generate value, the Federal Government would have rights to share in the project value. The Federal Government would not assert first claim under any such agreement, would not accept a seat on any company's board of directors, and all partnership agreements would provide that the company retains ownership of any and all intellectual property.

D. Minimum match requirements in the form of equity investments by private or non- profit organizations. Applicant must demonstrate equity is committed and available.

E. Federal technical assistance available in addition to funding tracks, but no funding provided.

F. Dept. of Commerce would administer the program with an interagency selection committee. A notice of funding opportunity would be published in the federal register soliciting applications on an annual basis. Cost benefit analysis is required and applications are limited to one per lead applicant, although there would be no limit to the number of applications on which an applicant could be listed as a partner applicant.

G. Applicants selected would enter into a partnership agreement with the Federal Government which would specify terms and would not exceed 7 years to outlay funds. Milestones and schedules included in the agreement, the progress for which the lead Federal agencies would conduct regular audits.

III. **Rural Infrastructure Program:** designed to encourage investment to enable rural economies, facilitate freight movement, improve access to reliable and affordable transportation, etc. States are incentivized to partner with local and private investment for completion and operation of projects under this program. ***Accounts for 25% of total appropriation.***

A. Eligible entities rural programs include:

   1. Transportation - roads, bridges, public transit, rail airports, and maritime and inland waterway ports;
   2. Broadband - and other high-speed data and communication conduits;
   3. Water and waste – drinking water, waste water, land revitalization, and Brownfields;
   4. Power and electric – governmental generation, transmission and distribution facilities; and
   5. Water resources – inland waterway ports, flood risk management, maritime ports and water supply.

B. Funding:

1. 80% of funds made available for states would be provided to the Governor of each state via the following formula:
    a. Ratio based on total rural lane miles in a state in relation to total rural lane miles in all states and a ratio based on the total adjusted rural population of a State in relation to the total adjusted rural population of all states.
2. 20% reserved for rural performance grants
    a. States encouraged to do so within 2 years of enactment
    b. Grants available for up to 10 years after enactment or until funds run out.
    c. To qualify, states must publish a comprehensive rural infrastructure investment plan (RIIP) within 180 days of receipt of formula funds.
3. Funds made available would be distributed as block grants without Federal requirements, but must be used for projects in rural areas with a population of less than 50,000.
4. Provides investment designed to address infrastructure needs on tribal lands and U.S. Territories.

IV. **Federal Credit Programs:** designed to increase the capacity of existing Federal lending programs to increase investment. ***Accounts for 7.05% of total appropriation.***

A. Would establish the (1) Transportation Infrastructure Finance and Innovation Act, (2) Railroad Rehabilitation and Improvement Financing, (3) Water Infrastructure Finance and Innovation Act, and (4) United States Department of Agriculture Rural Utilities Lending Programs under which specific funds would be set aside and appropriated to the relevant U.S. agency and would remain available until 2028.

V. **Public Lands Infrastructure Fund**: would create a new infrastructure fund in the U.S. Treasury called the Interior Maintenance Fund comprised of additional revenues from the amounts due and payable to the U.S. from mineral and energy development on Federal lands and waters.

VI. Disposition of Federal Real Property: would establish through executive order the authority to allow for the disposal of Federal assets to improve the overall allocation of economic resources in infrastructure investment.

VII. Federal Capital Financing Fund: creates a funding mechanism similar to a capital budget but that operates within the traditional rules used for the Federal budget by establishing a mandatory revolving fund to finance purchases of federally owned civilian real property. Once approved in an Appropriations Act, the revolving fund would transfer money to agencies to finance large- dollar real property purchases. Purchasing agencies would then be required to repay the fund in 15 equal annual amounts using discretionary appropriations. ***Accounts for 5% of total appropriation.***

VIII. Private Activity Bonds: would amend 26 U.S.C. 142 to allow broader categories of public- purpose infrastructure, including reconstruction projects, to take advantage of PABs would encourage more private investment in projects to benefit the public.

A. Elimination of the AMT provision and the Advance Refunding prohibition on PABs
B. Elimination of the transportation volume caps on PABs and expend eligibility to ports and airports
C. Removal of state volume cap on PABs
D. Provide change-of-use provisions to preserve the tax-exempt status of governmental bonds
E. Require public attributes for core public infrastructure projects
F. Provide change-of-use cures for private leasing of projects to ensure preservation of tax exemption for core infrastructure bonds

Principles for Infrastructure Improvements

I. **Transportation**

A. Financing
1. Allow states flexibility to toll on interstates and reinvest toll revenues in infrastructure

2. Reconcile the grandfathered restrictions on use of highway toll revenues with current law
3. Extend streamlined passenger facility charge process from non-hub airports to small hub sized airports
4. Support airport and non-federal maritime and inland water way ports financing options through broadened TIFIA program eligibility
5. Subsidize railroad rehabilitation and improvement financing for short-line and passenger rail
6. Provide states flexibility to commercialize interstate rest areas
7. Remove application of federal requirements for projects with de minimis Federal share
8. Expand qualified credit assistance and other capabilities for state infrastructure banks

B. Highways
1. Authorize federal land management agencies to use contracting methods available to states
2. Raise the cost threshold for major project requirements to $1 billion
3. Authorize utility relocation to take place prior to NEPA completion
4. Refund of federal investment to eliminate perpetual application of federal requirements
5. Provide small highway projects with relief from the same Federal requirements as major projects

C. Transit
1. Require value capture financing as condition for receipt of transit funds for major capital projects (Capital Investment Grants)
2. Eliminate constraints on use of public-private and public-public partnerships in transit
3. Codify expedited project delivery for Capital Investment Grants pilot program

D. Rail
1. Apply Fast Act streamlining provisions to rail projects and shorten the statute of limitations

E. Airports
1. Create more efficient federal aviation administration oversight of non-aviation development activities at airports
2. Reduce barriers to alternative project delivery for airports
3. Clarify authority for incentive payments under the Airport Improvement program
4. Move oversight of AIP funds to post-expenditure audits

II. **<u>Water Infrastructure</u>**

A. Financing
1. Authorize Clean Water State Revolving Fund for privately owned public purpose treatment works
2. Expand EPA's WIFIA authorization to include flood mitigation, navigation and water supply
3. Eliminate requirement under WIFIA for borrowers to be community water systems
4. Authorize Brownfield rehabilitation and clean-up of superfund sites under WIFIA
5. Reduce rating agency opinions from two to one for all barrowers
6. Provide EPA authority to waive the springing lien in certain lending situations
7. Increase the base level of administrative funding authorized to ensure EPA has sufficient funding to operate the WIFIA program
8. Remove the restriction on the ability to reimburse costs incurred prior to loan closing under WIFIA
9. Expand the WIFIA program to authorize eligibility for credit assistance for water systems acquisitions and restructurings.

B. Water Programs
1. Remove the application of Federal requirements for de minimis Federal involvement
2. Provide EPA infrastructure programs with "SEP-15" authorizing language

3. Apply identical regulatory requirements to privately owned "public purpose" treatment works and publicly owned treatment works

C. Inland Waterways

1. Authorize all third-party construction and operation arrangements as eligible expenses for inland waterways trust fund and treasury appropriations
2. Authorize non-federal construction and operation of inland waterways projects

D. Water infrastructure resources

1. Authorize user fee collection and retention by the Federal government and third parties under the WRDA Section 5014 pilot program
2. Expend U.S. Army Corps of Engineers' authority to engage in long-term contracts
3. Authorize operation and maintenance activities at hydropower facilities
4. Deauthorize certain federal civil works projects
5. Expand authority for acceptance of contributed and advanced funds
6. Retain recreation user fees for operation and maintenance of public facilities
7. Amend the Water Resources Development Act to allow for waiver of cost limits
8. Expand WIFIA authorization to include Federal deauthorized water resource projects

III. Veterans Affairs: designed to provide Veteran's with state-of-the-art facilities

A. Authorize VA to retain proceeds from sales of properties
B. Authorize VA to exchange existing facilities for construction of new facilities
C. Authorize pilot for VA to exchange land or facilities for lease of space
D. Increase threshold above which VA is required to obtain Congressional authorization for leases

IV. Land Revitalization (Brownfield/Superfund Reform)

A. Replicate the Brownfield Grant/Revolving Loan Fund program for Superfund projects
B. Clarify EPA's ability to create special accounts for third party funds for CERCLA clean up response without state assurances
C. Provide liability relief for states and municipalities acquiring contaminated property through actions as sovereign governments
D. Provide EPA express settlement authority to enter into administrative agreements
E. Integrate clean up, infrastructure and long-term stewardship needs by creating flexibility in funding and execution requirements
F. Authorize national priority list sites to be eligible for Brownfield grants
G. Clarify risks to non-liable third parties that perform superfund cleanup.