

Draft Orange County Transportation Authority 2017-18 Federal Legislative Platform

INTRODUCTION

With a population of over three million, Orange County is the third most populous county in California and the fifth most populous county in the nation. Orange County is also one of the most densely populated areas in the country and is second only to San Francisco for the most densely populated county in the State of California. National and global attractions include Disneyland, Knott's Berry Farm, and over 42 miles of coastline, making Orange County a worldwide vacation destination.

Among metro areas in the United States (U.S.), Orange County is one of the top 20 producing economies in the nation and is home to one of the busiest transit systems in the nation. In addition, Orange County provides highway and rail corridors that facilitate an increasing level of international trade entering the Southern California ports. However, according to the latest annual survey of urban mobility by the Texas Transit Institute, the Los Angeles metropolitan area, including Long Beach and Orange County, also has the second most congestion of any metropolitan area in the nation, delaying drivers an average of more than 80 hours per year. In conducting all of its activities, Orange County Transportation Authority (OCTA) strives to the maximum extent possible to improve transportation performance, reduce congestion, and reduce emissions. With regard to federal revenues, Orange County is consistently a donor county within a donor state.

OCTA's Federal Legislative Platform outlines the statutory, regulatory, and administrative goals and objectives of the transportation authority. The following platform was adopted by the OCTA Board of Directors (Board) to provide direction to staff and federal legislative advocates for the 115th Congress.

PRINCIPLES AND OBJECTIVES

OCTA will use the following principles and objectives to guide implementation of the specific recommendations contained in this platform:

1. OCTA will seek to obtain a fair share of federal funding from all sources for transportation projects within the County, taking into account its size, population, congestion mitigation, and particular transportation needs;
2. OCTA will support the transportation legislative efforts and objectives of other Orange County entities, as appropriate, to further the implementation of this platform, provided that such efforts by others are consistent with OCTA Board-approved projects and policies; and do not place OCTA in direct competition these entities for discretionary funding;

3. In order to accomplish the goals of this platform, OCTA will work with other entities such as the Orange County Business Council, regional entities such as county transportation commissions and transit agencies, the Southern California Association of Governments, and Mobility 21;
4. OCTA will take an active role in the process of formulating legislation which will reauthorize future federal highway and transit programs, reaching out to the region, state, and appropriate congressional leaders, and working with them towards a long term and stable future reauthorization program which benefits Orange County.

I. Annual Transportation Funding

~~On July 6, 2012, President Obama signed Public Law 112-141, Moving Ahead for Progress in the 21st Century (MAP 21), which authorized surface transportation funding for federal fiscal years (FFY) 2013 and 2014. However, MAP 21 eliminated the firewalls from previous transportation authorization legislation. In the past, these firewalls required the annual appropriation of all authorized amounts from the Highway Trust Fund. This relationship between authorization and appropriations has been continued when~~

~~On December 4, 2015, President Obama signed the Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94). Like other recent multiyear surface transportation bills, the FAST Act does not require the appropriation of authorized Highway Trust Fund dollars. Therefore, the annual appropriations process will continue to play an important role in the OCTA federal legislative platform, and OCTA will continue to advocate for the largest possible amount and share of annual appropriations to implement the FAST Act ensure adequate resources for OCTA's operations.~~

~~An important aspect of MAP 21 and the FAST Act was theDue to funding limitations ratified with bipartisan Congressional agreement, the FAST Act that the legislation does not contain any funding specifically directed to individual projects, (commonly referred to as "earmarks.")-It is expected that annual appropriations bills will continue this practice for the foreseeable future. follow a similar approach in FFY 2017 and 2018 Accordingly, there are no earmark requests included in the OCTA platform for the 115th Congress. Should this situation change, OCTA will seek the guidance and input of the Legislative and Communications Committee regarding any project requests.~~

~~Even in the absence of specific eCongressional earmarks, certain amounts of discretionary transportation funding will be appropriated on an annual basis. continue to be distributed by the U.S. Department of Transportation (DOT). As long as this remains the case, OCTA will continue to aggressively pursue discretionary funding for transportation projects from DOT, working within the statutory and regulatory requirements of any funding program parameters of DOT funding eligibility, the current~~

funding status of OCTA's capital program, and the direction of the Legislation and Communications Committee.

Other annual appropriations funding priorities for OCTA include:

- ~~a) Support appropriations and additional funding, with increased flexibility, of transit security grant programs for the Department of Homeland Security (DHS) to protect county surface transportation systems, including highways, transit facilities, rail lines, and related software systems; (moved to Subsection (c))~~
- a) *Support federal transportation funding assistance, including for transit operations, provided that such assistance is: 1) is sustainable at the federal, state, and local level; 2) not be considered a replacement for any ongoing program, or a substitute for the current federally authorized transit program; 3) be funded by the general fund apart from any ongoing transit appropriations; 4) be used to preserve or create jobs and transit services, and not for wage increases to current personnel; and 5) be available for capital purposes to the extent not needed for direct operating costs; (moved from Section III, subsection (d))*
- b) Support New Start funding for fixed-guideway projects selected for implementation through the Go Local process;
- c) *Support appropriations and additional funding, with increased flexibility, of transit through safety and security grant programs for the Department of Homeland Security (DHS) in order to protect Orange County's surface transportation systems, including highways, transit facilities, rail lines, and related software systems; (moved from subsection (a))*
- e d) In concert with regional transportation agencies, seek funding for the Southern California Regional Training Consortium to develop bus maintenance training information for the transit agencies throughout Southern California;
- d e) Support appropriations funding for rail safety programs, including funding for implementation and operation of positive train control requirements and other safety enhancements or risk reduction recommendations;
- e f) Support the authorization and appropriation that provides for federal funding that supports intercity and regional passenger rail corridors in California, including the Los Angeles – San Diego – San Luis Obispo Rail Corridor;

II. Advocacy Efforts for Implementation of Existing and Planned Federal Highway and Transit or Rail Programs

With the passage of the FAST Act, OCTA's efforts during 2017 and 2018 the 115th Congress will continue to focus on regulatory implementation of this legislation and on

possible additional legislation to complement the programs and provisions set out in the FAST Act. During this time, OCTA will advocate for the following issues:

- a) Advocate for a fair and equitable distribution of FAST Act funding to OCTA from the State of California in accordance with any agreed-upon statewide administrative plan or enacted state legislation;
- b) Working with regional agencies, advocate for a high ranking of the Alameda Corridor projects as part of the FAST Act discretionary programs;
- c) Upon definition and approval by the Board, seek support from the Federal Transit Administration and Orange County Congressional Delegation for any fixed-guideway transit projects approved for implementation by the Go Local process;
- d) Pursue continued eligibility of Congestion Mitigation Air Quality (CMAQ) program funding for at least three years of operating expenses associated with any new start fixed-guideway or eligible bus projects in Orange County;
- e) *Advocate for inclusion of recommendations from the OCTA Breaking Down Barriers Report and subsequent Follow-on Study as part of future legislation and regulations, including: (moved from Subsection (k))*
 - e 1) *Support expanded design-build authorizations for federally-funded highway and surface transportation projects; ~~in accordance with the OCTA Breaking Down Barriers report (approved by the Board on March 28, 2011) and any similar follow-on reports; (moved from Subsection (e) to streamline Subsections (e),(f), (g), and (k))~~*
 - f 2) *Support environmental process improvements and stewardship efforts by the relevant federal agencies to expedite project delivery and accelerate the creation of jobs; and ~~, in accordance with the FAST Act and the OCTA Breaking Down Barriers Report approved by the Board on March 28, 2011, and any similar follow-on reports; (moved from Subsection (f) to streamline Subsections (e),(f), (g), and (k))~~*
 - g 3) *Support expedited federal review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities. ~~, in accordance with the FAST Act and the OCTA Breaking Down Barriers Report, approved by the Board on March 28, 2011, and any similar follow-on reports (moved from Subsection (g) to streamline Subsections (e),(f), (g), and (k))~~*
- h f) Support efforts within the surface transportation reauthorization legislation, or other appropriate legislation, that direct state departments of transportation to give consideration to the condition and effectiveness of local evacuation routes

in high risk areas when setting priorities for the disbursement of highway funding;

- i g) Support efforts to authorize, fund, and streamline the delivery of, bike paths, bike trails, and pedestrian paths within Orange County;
- j h) Advocate for legislation, programs, and projects, which encourage, where possible, a “complete streets” approach to planning and multi-modal planning approaches in order to expedite project delivery;
- ~~k) Advocate for inclusion of recommendations from the OCTA Breaking Down Barriers Report, approved by the Board on March 28, 2011, and any similar follow on reports, as part of future legislation and regulations; (moved to Subsection (e) to streamline Subsections (e), (f), (g), and (k))~~
- l i) Encourage the Federal Highway Administration (FHWA) to return the Regional Transportation Plan (RTP) to a long-range planning and vision document rather than a detailed, 30-year financial plan, as current regulations mandate;
- m j) Regulations have shifted the approval of RTP amendments involving Transportation Control Measures from FHWA to the Environmental Protection Agency (EPA). OCTA requests that this approval process revert back to FHWA and maintain a consultation process with EPA;
- n k) Request that federal funding guidelines permit use of funds for soundwalls as a local option. The FHWA does not permit the use of highway funds to retrofit soundwalls, yet federal trade policies have led to increased freight traffic along goods movement corridors and, hence, noise along the freeways. OCTA requests that the policy be amended to allow highway funds to be used to mitigate the impacts of freight traffic on local communities adjacent to goods movement corridors;
- o l) Work with the FHWA, or appropriate members of Congress, as part of the waiver process set out in the FAST Act, to obtain flexibility and increased local decision-making authority regarding the operation of high-occupancy vehicle (HOV) lanes, in order to reduce or eliminate the unintended consequences provided by Section 166 of the Federal Highway Act or any similar provisions regulating degradation of HOV lanes;
- p m) Engage the State of California, and other state and federal stakeholders, to seek the mitigation or elimination of any federal requirements for direct actions within 180 days in response to any degradation found to exist on federally funded highways;
- q n) Support legislative and administrative streamlining of Federal Buy America requirements to permit greater certainty and consistency regarding the

requirements, and greater flexibility in applying the requirements to federal funded highway and transit projects;

- f o) In conjunction with other Southern California public rail transportation providers, support legislative and administrative efforts to: 1) responsibly implement and operate Positive Train Control (PTC) nationwide in a manner that takes into consideration any and all technological, fiscal, and logistical challenges in its implementation, while providing for reasonable exemptions from legislative deadlines on a case-by-case basis; 2) assure that any alternative technologies employed in other rail systems are interoperable with, and contain the same safety benefits as, the PTC system implemented by Metrolink; 3) ensure that the necessary technical resources such as wireless spectrum, are made available, as appropriate, for the full implementation of PTC;
- s p) Seek flexibility for the use of formula transit funds to support and utilize alternative transportation services.

~~The last 16 miles of the 67-mile Transportation Corridor Agencies (TCA) toll road system, known as the Foothill South Project, represents the only Southern Orange County travel alternative to the Interstate 5 (I-5). The I-5 corridor is already dominated by severe traffic congestion, negatively impacting travelers throughout Orange County. Due to the need to use property leased from the federal government as part of the preferred right-of-way for the extension, opponents of this project have used federal legislation in an attempt to halt or severely impede project completion. Therefore, OCTA will continue to oppose any provision of federal law which would impede the completion of the project and will work in an active partnership with the TCA in Washington D.C. to seek a resolution to this issue which will permit the completion of a Foothill South Project through Southern Orange County.~~

III. Economic Impact Legislation and Regulations

Several federal legislative and regulatory actions are also under consideration to prevent unintended adverse economic impacts to the transportation industry and also to appropriate funding for transportation infrastructure projects as a means of creating needed jobs in the economy. In this regard, OCTA will:

- a) Support legislation which would hold harmless local governments who held debt instruments of Lehman Brothers on September 15, 2008, and other regulatory actions pursuant to section 103 of the Emergency Economic Stabilization Act, which are needed to ensure stability in local entities that, through no fault of their own, suffered losses in the economic crisis of 2008;
- b) Support federal legislation and programs which accelerate funding for transportation infrastructure projects and, thereby, create additional jobs and economic activity in Orange County;

- c) Oppose any federal legislation or regulatory action which acts to impede the development of business opportunities and job creation in Orange County;
- d) ~~Support federal assistance for transit operations, provided that such assistance: 1) is sustainable at the federal, state, and local level; 2) not be considered a replacement for any ongoing program, or a substitute for the current federally authorized transit program; 3) be funded by the general fund apart from any ongoing transit appropriations; 4) be used to preserve or create jobs and transit service, and not for wage increases to current personnel; and 5) be available for capital purposes to the extent not needed for direct operating costs; (moved to Section I, Subsection (a))~~
- e d) Oppose any further increase in the current rail passenger liability cap of \$295 million per incident and work with regional partners to ensure that discussions regarding the cap take into account the limited resources of public sector passenger rail providers.
- f e) Oppose federal legislative and/or regulatory actions that would divert revenues generated by locally-approved sales taxes, to programs and projects that are not included in the sales tax ordinance.
- f) *Support fiscally sound legislation that adequately addresses the Highway Trust Fund's structural deficit.*

IV. Reauthorization of the Highway, Transit, and Rail Programs

~~During the 12-year life of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and MAP-21, OCTA received over \$1.88 billion in transportation funding from programs authorized under the acts. The overwhelming majority of these funds (approximately 94 percent or \$1.77 billion) were provided pursuant to formula-funded programs on a pay as you go basis. A large percentage of the formula funds are used to fund OCTA's transit operating budget. The remainder is used for highway, transit, and surface transportation capital projects throughout the region.~~

~~On December 4, 2015, Congress passed and the President signed into law the FAST Act, the first federal law in over a decade to provide long-term funding certainty for surface transportation infrastructure planning and investment.~~

The FAST Act authorizes \$305.5 billion over ~~f~~*Fiscal* ~~y~~*Years* 2016 through 2020 for public transportation, rail, highway, highway and motor vehicle safety, motor carrier safety, hazardous materials safety, and research, technology, and statistics programs. These funding levels authorized by the FAST Act provides modest increases in all major existing surface transportation programs over the five-year life of the *bill* authorization. It also adds new formula and discretionary freight programs, a new

discretionary bus capital program, *and* modest new funding for intercity rail. ~~—and maintain~~ *The legislation also preserves the federal focus on safety, keeps intact the established structure of the various highway-related programs, and continues efforts to streamline project delivery.* The enactment of the FAST Act allows state and local government agencies to move forward with critical transportation projects with the confidence that they will have a federal partner over the long term.

While the FAST Act provides funding authorization through ~~FFY~~ *Fiscal Year* 2020, it is possible that the 115th Congress will begin to look at additional or extended transportation authorization funding during the next two years. ~~In the event of this event,~~ *OCTA will examine any such proposals using the following framework:*

- a) OCTA will analyze key highway, transit, and rail reauthorization proposals as they emerge to determine:
 - 1) The source, adequacy, and stability of proposed future revenues to meet future transportation needs and the economic impact to the public of collection of those revenues;
 - 2) The extent to which a proposal will maximize the return of federal revenues to California and to OCTA;
 - 3) The extent to which a proposal enhances the federal funding partnership by helping OCTA address capital and operating revenue shortfalls;
 - 4) Whether or not the proposal contains any unfunded statutory or regulatory mandates applicable to OCTA; *and*
 - 5) The extent to which the proposal contains provisions which support the recommendations contained in OCTA's Breaking Down Barriers Report *and subsequent Follow-on Study.* ~~—approved by the Board on March 28, 2011, and any similar follow-on reports;~~
- b) Based upon this analysis, OCTA will seek a Board determination of the appropriate approach to any new surface transportation reauthorizing proposals in Washington D.C. *based on the following general principles:*
 - b 1) OCTA generally supports program features in the next highway, transit, and rail authorization legislation ~~which to enable greater flexibility in the permitted uses of transportation funds, and which to distribute funding based upon formula factors which that~~ adequately recognize the extent of transportation funding needs within Orange County;
 - e 2) OCTA generally supports receiving federal highway funds through a fair sub-allocation, ~~taking into that~~ accounts ~~ing~~ for additional costs,

increased administrative responsibilities, and the potential for increased liabilities to which the agency may be subject; *and*

- d 3) OCTA generally supports efforts that would ensure that all users of the national transportation system pay their “fair share” to maintain and improve the system.

V. Goods Movement

The twin Ports of Los Angeles and Long Beach are considered “America’s Gateway” and the nation’s busiest ports, *handling more than \$180 billion dollars’ worth of cargo each year*. The maintenance and improvement of our region’s goods movement infrastructure must continue to be a national priority if our region is to remain competitive with the rest of the world and be responsive to the consumer needs of the nearly 18 million people living in Southern California. The need for the Southern California region to remain competitive is further underscored by the expansion and modernization *by foreign competitors. of the Panama Canal and other ports*. Even though the FAST Act will provide \$10 billion for goods movement projects and programs, these and other revenue streams at the federal level remain insufficient to fund the projects needed to offset the costs of moving these goods *considering the many years of underinvestment*.

Therefore, OCTA’s advocacy efforts regarding goods movement will continue to emphasize the following:

- a) Pursue new, stable, dedicated, and secure sources of funding for goods movement infrastructure;
- b) Assure that the benefits of newly funded projects also take into account mitigation factors to impacted communities;
- c) Continue to work with Congress, the state, and local governments, as well as with the private sector, to develop and implement the needed *sustainable* infrastructure programs and projects;
- d) Ensure that public control of goods movement infrastructure *and freight mobility* projects is retained at the local level;

VI. ~~Homeland~~Transportation Security and Emergency Preparedness

OCTA continues cooperative efforts with neighboring transit agencies, Urban Area Security Initiative partners, state and federal Homeland Security and Emergency Preparedness grant partners, and local jurisdictions to enhance the security and resiliency of regional highway, bus, and rail systems. In addition to seeking additional grant funding to secure ~~the~~ *the* Orange County’s highways, rail, transit, and computer information systems, OCTA will pursue the following regulatory and statutory changes

to ensure homeland *that safety*, security, and emergency preparedness needs are met:

- a) Support increased federal funding to transit agencies for staff training, increased surveillance, and security and *disaster* preparedness improvements for highways, transit, rail security, and computer information systems in the U.S., and flexibility for the use of these funds;
- b) Support a fair and effective distribution of grant funds ~~which~~ *that* takes into consideration the risks *of all hazards, including natural disasters, acts of terrorism, and other man-made disasters* ~~on targets~~ in Southern California, as estimated by the *Department of Homeland Security*, ~~working~~ in cooperation with state and local officials;
- c) Support programs that reach out to state homeland security and emergency preparedness officials to improve information exchange protocols, refine security and *disaster* preparedness systems, and support state and regional data coordination.

VII. Energy Issues

Legislation addressing U.S. policies on energy is likely to play a role in the 115th Congress. The transportation sector is the largest consumer of petroleum in the U.S. Therefore, the focus by Congress to further develop energy efficient policies is likely to have an impact on OCTA operations. With this in mind, OCTA will:

- a) Monitor legislation and federal rulemaking that addresses new or emerging energy policies such as incentives for alternative fuel technology, and use and developer incentives supporting transit programs, as well as research and technology;
- b) Provide federal legislative reports to the Board outlining any energy-related legislation introduced in the next Congress that potentially impacts OCTA operations;
- c) Work with industry associations to comment on congressional actions and/or federal policies that impact the public transportation sector;
- d) Support the continuation of fuel tax credits for OCTA's use of compressed natural gas and liquefied natural gas, and the expansion of these credit incentives for the use of other alternative transit fuels.

VIII. Environmental Policy and Other Regulatory Requirements

Federal environmental laws and regulations affecting OCTA include the National Environmental Protection Act, the Federal Clean Air Act, Federal Water Pollution

Control Act, and the Endangered Species Act. With regard to these acts and related regulations, OCTA will:

- a) Seek opportunities to expedite and improve the efficiency of the environmental process for federally funded projects. The OCTA Breaking Down Barriers ~~#Report and subsequent Follow-on Study, approved by the Board on March 28, 2011,~~ contains numerous examples of ~~ways to expedite instances where the environmental review process can be expedited and made more efficient~~ without impairing substantive environmental requirements. ~~MAP 21 and the FAST Act~~ *Many of these recommendations have been* incorporated ~~many of these recommendations~~ into statute, ~~with the requirement of implementing regulations.~~ OCTA will monitor future regulations in this area to ensure ~~that they~~ *the* effectively implementation of these statutory provisions.
- b) Seek federal funding to meet state and local environmental quality requirements, including anticipated requirements for zero emission busses, alternative fueling stations, and future greenhouse gas reduction requirements;
- c) Monitor any new federal programs seeking to address the environmental impacts of greenhouse gases to ensure that any new environmental requirements are accompanied by additional funding necessary to implement those requirements;
- d) Support legislation and federal grant programs that encourage ridesharing and related congestion relief programs for Orange County commuters.

In addition, OCTA takes the following positions with regard to U.S. departments providing federal oversight, specifically:

- e) Support efforts to work with the California Department of Transportation and the Administration to equitably resolve the United States Department of Transportation interpretation of Americans with Disability Act (ADA) compliance guidelines that retroactively require the implementation of costly curb-ramp and level boarding upgrades within the boundaries of federally-funded projects. According to state officials implementing these regulations on behalf of FHWA, the requirements apply even if curb-ramps are already in place, but considered to be out of date according to the most recent ADA guidelines, or when the project would not require ground disturbance (i.e. signal synchronization projects funded with CMAQ funds);
- f) Oppose any regulations or administrative guidance seeking to extend through administrative actions the statutory requirements of ADA;
- g) Support expedited federal review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities;

- h) Support expedited and improved federal reporting and monitoring requirements to ensure efficiency and usefulness of data, and to eliminate redundant state and federal requirements;
- i) Ensure that regulations and programs implementing federal requirements regarding transit safety oversight are reasonable, as free as possible from bureaucratic burden, and do not place an unfair financial burden on OCTA operations.

IX. Employment Issues

Federal employment laws affecting OCTA include the Fair Labor Standards Act, Family and Medical Leave Act, Occupational Safety and Health Act, and the Omnibus Transportation Employee Testing Act of 1991. While significant changes to these federal laws are not anticipated during the 115th Congress, OCTA's historical positions regarding labor and employment issues have included:

- a) Support income tax deductions for employees receiving employer-provided transit passes, vanpool benefits, or parking spaces currently counted as income;
- b) Oppose legislation and regulations, and any federal grant actions adversely affecting the agency's ability to effectively and efficiently address labor relations, employee rights, benefits including pension benefits, and working conditions including health, safety, and ergonomics standards in the workplace;
- c) Support efforts to restrict the ability of the Federal Government to limit state or local efforts to reform pension benefits.