



April 16, 2020

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

Updates are provided on the federal response to the coronavirus pandemic as well as a rulemaking on fuel-efficiency standards.

Recommendation

Receive and file as an information item.

Discussion

Initial Federal Response to Coronavirus Pandemic

An overview of significant federal policy actions taken in response to the coronavirus (COVID-19) pandemic is included as Attachment A. In terms of legislation, the President signed into law three bills to respond to the pandemic. On March 6, the President signed the first of the three bills, an \$8.3 billion emergency funding bill that specifically directed resources to state and local health departments and medical research centers, as well as loans to certain small businesses. While this bill did not directly provide funding to the Orange County Transportation Authority (OCTA), it was the first major step the federal government took in response to the increasing severity of the pandemic.

On March 13, the President issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, facilitating various actions to allow local, state, and federal government partners to properly respond to the COVID-19 pandemic. Most specifically to OCTA, the emergency declaration triggered policy and funding changes from the Federal Transit Administration (FTA). The emergency declaration made activities conducted in response to COVID-19 eligible for reimbursement under the Federal Urbanized Area Formula Program (Section 5307). The declaration also facilitated the use of Section 5307 funding for operations, to procure masks and other personal

protective equipment, and to clean rolling stock, all of which are generally prohibited by statute. The declaration also opened FTA's Emergency Docket through which the FTA can provide guidance on how transit agencies can best respond to the pandemic.

On March 18, the President signed into law a bill that provides over \$100 billion in resources for health programs, paid leave, nutrition assistance, and unemployment benefits to further stabilize the worsening economic conditions stemming from the spread of the virus. The bill significantly expanded paid and sick leave for those people affected by, and caring for a family member affected by COVID-19. As this bill was working its way through Congress, serious negotiations began on the most comprehensive of the three bills considered in response to the pandemic, which is detailed in the next section.

Coronavirus Aid, Relief, and Economic Security Act

On March 27, the President signed into law landmark legislation, the Coronavirus Aid, Relief and Economic Security Act (CARES Act), which provides more than \$2 trillion in economic incentives and other measures in response to the COVID-19 pandemic. Hailed as the largest stimulus package ever passed by Congress, this sweeping legislation included emergency funding, tax incentives, economic stabilization measures, expanded unemployment insurance, and various health policies. The legislation's most notable economic stabilization measure is the so-called "2020 Recovery Rebates," which are stimulus payments sent directly to taxpayers. The direct payments are \$1,200 for individuals and \$2,400 for joint filers. These amounts decrease for higher income earners, and taxpayers will receive an additional \$500 for every child under the age of 17. As of the writing of this staff report, direct payments were expected to be sent to taxpayers in the coming weeks. The stimulus bill also provided \$500 billion in loans and other incentives for distressed businesses, including \$58 billion for the airline industry; \$350 billion in small business loans; and \$260 billion to expand unemployment insurance benefits.

For OCTA, the most important aspect of the CARES Act is the more than \$274 billion in emergency funding provided largely to state and local governments via federal agencies. The stimulus package provides \$25 billion within four FTA formula programs to assist transit operators in responding to the impacts of COVID-19 on transit service. The bill appropriates a majority of the funding to the Section 5307 formula program, and the Federal FTA State of Good Repair Grants program (Section 5337). These FTA formula programs are the two largest, most reliable sources of federal transit funding for OCTA. Under the bill, the emergency funding is allocated in the same ratios as the latest federal funding bill, and according to estimates provided at the time of the bill's passage, the bill will appropriate more than \$13.8 billion in Section 5307 funding and more than \$7.5 billion in Section 5337 funding. Similarly, these estimates indicated that more than \$3.5 billion of the stimulus bill's funding is expected to flow to

California. Based on OCTA's most recent funding apportionments, it is estimated that Orange County will receive almost \$224 million in total funding, with approximately \$154 million directed to OCTA bus operations and approximately \$67 million directed to Metrolink. OCTA's actual funding amounts are subject to the FTA apportionment process. On April 2, 2020, the FTA made the apportionment available on its website. The next step is for the Southern California Association of Governments (SCAG) to formally allocate the FTA apportionment to each recipient in the region, including OCTA. SCAG has begun this process as of the writing of this staff report.

The legislation also contained numerous provisions to ensure that this funding is expediently used in response to the COVID-19 pandemic. Notably, the bill requires that the FTA funding be apportioned no later than seven days after enactment. The emergency funding is to be used for operating expenses to prevent, prepare for, and respond to the COVID-19 pandemic. The text specifically allows for the reimbursement of operating costs due to lost revenue from the COVID-19 public health emergency, the purchase of personal protective equipment, and to pay administrative leave to operations personnel due to service reductions. The bill also relaxes programming requirements when funds are used for these purposes to ensure that the emergency funding can be used as quickly as possible. Staff is working with its regional and national partners to clarify how this funding can be used to facilitate that best response to the COVID-19 here in Orange County.

There are two additional items of note in the CARES Act. First, the legislation provides Amtrak with more than \$1 billion to respond to the pandemic, consistent with Amtrak's request. The legislation provides \$492 million in grants for the Northeast Corridor and \$526 million in grants for the national network. Second, the bill caps the amount of sick leave authorized in the previous bill. The stimulus package specified daily and aggregate limits, with different caps for those who have contracted the virus and those caring for family members.

Next Steps

After passing the stimulus bill, the House and Senate both recessed with reports indicating that neither chamber would return to Washington for a few weeks. As of the writing of the staff report, there were numerous reports about future stimulus efforts. Both the President and Congressional leaders were reported as wanting such a bill to provide significant infrastructure investments, including the potential for some type of surface transportation reauthorization effort.

In anticipation of any such infrastructure-related discussions, staff began preparing a list of policies and project funding needs in order to influence the development of future stimulus legislation. Staff prepared a letter outlining the various types of policy flexibilities that may be needed to properly respond to the COVID-19 outbreak. The letter, included as Attachment B, outlines staff's policy

suggestions. Given the constantly changing dynamics of the pandemic, the list is intended to start a dialogue instead of serving as a comprehensive list of everything that may be needed. Highlights of policies discussed in the letter include formula funding flexibility, relaxed FTA requirements, adjusting National Transit Database reporting, streamlined environmental approvals, and programming and planning flexibility, among others. These requests are in addition to the more comprehensive principles previously adopted by the Board.

Staff also prepared a list of the most prominent project funding needs facing OCTA, which is included as Attachment C. This list, while also certainly not comprehensive, is a high-level overview of near-term funding needs, all of which have or will soon have the necessary environmental approvals should funding be made available in any type of future legislation. The speed and breadth of developments in Washington around this unprecedented national crisis cannot be understated. Staff will continue to monitor the situation closely and provide updates as the situation changes, including a detailed verbal update on any significant developments since the writing of this staff report at the April 16, 2020, meeting of the Legislative and Committee (Committee).

Rulemaking on Fuel Efficiency Standards

On March 31, the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration jointly released the text of a final rule entitled, “The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks.” This rulemaking, also referred to as Part Two of the SAFE Vehicles Rule, sets fuel economy standards for passenger vehicle fleets. The rule specifies a 1.5 percent annual increase in fuel-efficiency standards through model year 2026, as opposed to the five percent target in an earlier version of the rule.

As previously reported to the Committee, Part One of the SAFE Vehicles Rule, finalized last year, revoked the legal authority underpinning California’s more stringent air quality and climate change policies. The State of California filed multiple legal challenges against Part One, creating ongoing uncertainty about the assumptions in California’s air quality model. Part Two of the SAFE Vehicles Rule creates additional uncertainty, with over 2,700 pages of specific assumptions that must now be factored into California’s air quality model. Part Two also contains two policy statements about California’s model. First, Part Two includes a footnote saying that California’s legal authority will not be discussed in detail, providing no clarity to the ongoing litigation over Part One. Second, Part Two says that California’s air quality model is not explicitly invalidated, and it goes on to say that the EPA will work with state and federal agencies to best determine how to implement Part Two, which likely means that California’s air quality model will need to be updated as a result.

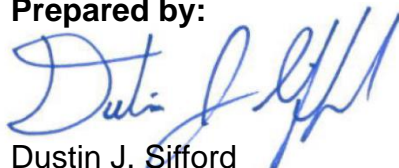
Part Two of the SAFE Vehicles Rule will go into effect 60 days after its publication in the Federal Register. As of the writing of this staff report, Part Two had not yet been officially published, making it difficult to determine the exact effective of this rule. Part Two is expected to be published in the Federal Register in a matter of days after the text was released, which would put the anticipated effective date as sometime in early June. SCAG's 2020 Regional Transportation Plan/Sustainable Communities Strategy – Connect SoCal – must receive an air quality conformity determination by June 1, 2020, to avoid a conformity lapse. Unfortunately, SCAG was unable to approve the plan at the Regional Council meeting scheduled for April 2, 2020, which was cancelled due to COVID-19 concerns. Staff is closely monitoring the situation to determine what actions, if any, OCTA must take to ensure OCTA's continued ability to deliver transportation projects in Orange County in light of Part Two of the SAFE Vehicles Rule. Staff will continue to provide further updates as information becomes available, including a verbal update to the Committee on any new information since the writing of the staff report.

Summary

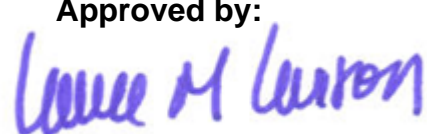
An update is provided on the federal response to the COVID-19 pandemic as well as Part Two of the SAFE Vehicles Rule.

Attachments

- A. Major Federal Policy Actions Related to Coronavirus (COVID-19) Pandemic
- B. Letter from Steve Jones, Chairman, to the Honorable Mitch McConnell, the Honorable Nancy Pelosi, the Honorable Charles E. Schumer, and the Honorable Kevin McCarthy, dated March 23, 2020
- C. OCTA Project Funding Needs
- D. Potomac Partners DC, Monthly Legislative Report – February 2020
- E. Potomac Partners DC, Monthly Legislative Report – March 2020

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