



March 18, 2021

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

For

Overview

The Orange County Transportation Authority regularly updates the Legislative and Communications Committee on policy issues directly impacting its programs, projects, and operations. An update is provided on Congressional action to enact the President's \$1.9 trillion stimulus funding package. An overview is provided of two transportation-related hearings, one on the reauthorization of federal transportation programs and the other on maintaining equity in transportation safety enforcement.

Recommendation

Receive and file as an information item.

Discussion

Economic Stimulus Negotiations

As an update on information previously reported to the Legislative and Communications Committee last month, Congress and the Administration have continued to work on the President's \$1.9 trillion economic stimulus package to facilitate a robust federal response to the ongoing coronavirus (COVID-19) pandemic. On February 26, 2021, the House passed legislation mirroring many of the President's proposals, including supplemental unemployment insurance, direct stimulus payments, assistance for state and local governments, and funding for a national vaccination program, testing, and contact tracing. On March 6, 2021, the Senate passed by a vote of 50 to 49 a version of the House bill with minor amendments. On March 10, 2021, the House voted on the stimulus package again in order to concur to the Senate's amendments, approving the final bill language by a vote of 220 to 211. The President signed the economic relief package into law on March 11, 2021.

Of note to the Orange County Transportation Authority (OCTA), the latest stimulus legislation includes approximately \$30.5 billion in emergency transit funding. Similar to previous stimulus proposals, the bill provides a large majority of emergency transit funding through Federal Transit Administration (FTA) formula programs. Within the \$30.5 billion in FTA funding, approximately \$26 billion would flow through the Urbanized Area Formula Grants program (Section 5307). The bill makes this funding available for operating expenses for public transit agencies to prevent, prepare for, and respond to the COVID-19 pandemic. The bill language provides direction that funding shall be used for payroll reimbursement, including for private providers of public transportation, operating costs to maintain service due to lost revenue, and administrative leave of operations or contractor personnel.

This stimulus bill does include three notable differences from previous stimulus legislation. First, the transit funding is only available until September 30, 2024, whereas the previous stimulus bills had not put an obligation deadline on FTA funds. Second, the bill only appropriates funding through Urbanized Area Formula Grants program (Section 5307) without making any reference to the FTA State of Good Repair Grants program (Section 5337). This stimulus bill marks the first time that emergency transit funding has been appropriated through just one FTA program. Third, the bill language attempts to direct funding to agencies with the greatest need. The bill also contains language limiting any urbanized area from receiving more than 132 percent of their 2018 operating costs, when combining this funding “otherwise made available to such urbanized area for similar activities to prevent, prepare for, and respond to” COVID-19. This language differs from previous stimulus legislation in that it does not tie the operating cost limitation to any specific legislation, instead using the broader reference to previously-enacted funding. The complexity of this language makes it difficult to estimate exactly how much funding OCTA will receive from this funding formula, but OCTA will continue to work with FTA and the Southern California Association of Governments to determine how this funding will benefit Orange County.

Included as part of the \$30.5 billion in transit funding, the bill provides \$1.675 billion in supplemental funding for the Capital Investment Grants (CIG) program, notably \$1.425 billion for CIG New Starts projects. The bill language directs this funding to all CIG projects with full funding grant agreements not yet open for revenue service as part of the federal response to COVID-19. While the bill language does not specifically call out the OC Streetcar project, the project is expected to receive an additional funding allocation. Per estimates prepared by transportation stakeholders, OCTA is expected to receive approximately \$9.4 million. Additionally, the bill language states that this additional CIG funding “shall be provided notwithstanding any calculation of the maximum amount of Federal financial assistance for the project.” Given the complexities of the bill language, staff is working with stakeholders and other

CIG project sponsors to ensure that this additional funding expediently benefits all CIG projects facing the ongoing challenges of the COVID-19 pandemic.

Also included as part of the \$30.5 billion in transit funding, the bill provides \$50 million for the FTA Enhanced Mobility of Seniors and Individuals with Disabilities program (Section 5310). The bill also calls for the creation of a \$2.2 billion competitive program awarding additional transit funding specifically to maintain operations and avoid layoffs and furloughs. This new competitive program would be based on financial need, requiring that applicants have expended 90 percent of the funds available for COVID-19 response made available last year.

As with previous stimulus discussions, staff continues its work with transportation agency partners and stakeholders to advocate for the interests of transit agencies as Congress drafts economic recovery legislation. The American Public Transit Association sent a letter, included as Attachment A, supporting the \$30.5 billion in emergency transit funding as a critical part of the COVID-19 response. Similarly, the California Transit Association (CTA) worked with stakeholders from across the State to send a letter, included as Attachment B, similarly supporting this additional funding. As was the case with previous advocacy efforts, the CTA correspondence reiterated that California should receive its equitable share of this funding so that transit agencies of all sizes across the State can benefit from the additional operational support.

Transportation Hearings

On February 24, 2021, the Senate Environment and Public Works Committee held a hearing entitled, "Building Back Better: Investing in Transportation While Addressing Climate Change, Improving Equity, and Fostering Economic Growth and Innovation." As the title of this hearing suggests, much of the conversation focused on efforts to reauthorize surface transportation programs expiring on September 30, 2021, given the Administration's ambitious policy agenda, specifically when it comes to equity and climate change. After this hearing, both House and Senate leaders indicated a desire to introduce surface transportation reauthorization legislation in the coming months, with both chambers aiming to prepare such legislation for floor consideration by Memorial Day.

At the hearing, Senators and witnesses spent a majority of time discussing the different ways in which federal transportation programs can be implemented to achieve the new Administration's wide-ranging policy goals. One of the most important themes in the questioning was whether federal funding should be delivered via existing formula programs, set-asides within formula programs, or competitive grant programs. The Senators and witnesses discussed whether flexibility in formula programs or putting conditions on competitive grant awards would be the best way to achieve the new Administration's policy goals, with no real consensus emerging from the discussion. Many of the Senators and

witnesses also brought up the need to streamline the environmental approval process, including calls to codify the One Federal Decision policy aimed at reducing the number of federal agencies issuing environmental approvals and limiting the timeframe for federal agencies to make such approvals. Senator Alex Padilla (D-California) asked the witnesses how federal funding can be used to make infrastructure more resilient from the impacts of severe weather events and how highway investments have displaced residents of certain low-income neighborhoods.

Also on February 24, 2021, the House Transportation and Infrastructure Committee's Subcommittee on Highways and Transit held a hearing entitled, "Examining Equity in Transportation Safety Enforcement." With equity becoming an increasingly important issue to the Administration, this hearing focused on the equity implications of the most prevalent methods utilized to enforce traffic safety laws, specifically interactions between law enforcement and users of publicly-funded roads and highways. Witnesses discussed how the National Highway Traffic Safety Administration (NHTSA) traffic fatality estimates facilitate the need to combat risky driving behavior without exacerbating discrimination and racial profiling.

One theme from this hearing was the use of NHTSA's Racial Profiling Prohibition Grants program, specifically the effectiveness of this program funding in ensuring the equitable enforcement of traffic laws. While NHTSA awards grants when Congress appropriates funding for the program, Congress does not provide funding for the Racial Profiling Prohibition Grants program every year. Moreover, the witnesses noted that grant awards are usually not very significant, allowing for only certain states and localities to make use of this funding in their communities. Representative Julia Brownley's (D-Thousand Oaks) questioning highlighted that California does not pursue these grants funds because the award amounts are so nominal. There were also questions focusing on the insufficient data available to assess equity disparities, including the role that funding uncertainty plays in exacerbating gaps in traffic enforcement efforts. Finally, there were also discussions about the implications of new technologies and trends, such as virtual reality simulations, bus-only lanes, and micro-mobility, in keeping road and highway users safe.

Summary

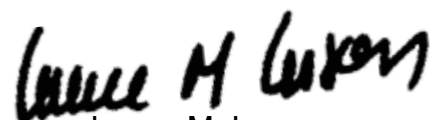
An update is provided regarding an additional round of federal funding in response to the economic impacts of the ongoing COVID-19 pandemic. Summaries are also provided for two transportation hearings, one on surface transportation reauthorization legislation and another on maintaining equity in the transportation enforcement efforts.

Attachments

- A. Letter from Paul P. Skoutelas, President and CEO, American Public Transit Association, to The Honorable Richard C. Shelby, United States Senate, dated March 2, 2021
- B. Letter from CTA and Stakeholders to the President and Congressional Leaders, dated February 26, 2021
- C. Potomac Partners DC, Monthly Legislative Report – February 2021

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