

August 30, 2013

To: Executive Board

Subject: **2013 Legislative Summary**

Recommendation

Receive and file the August 2013 Legislative Summary. There are no recommended positions on bills this month.

Analysis

A summary of state and federal legislation and its status is attached.

State Legislative Issues:

The Legislature is back in full swing as both the Senate and Assembly have returned from their summer recess. Committee and floor hearings will keep things hopping at the Capitol, as the Legislature hits the home stretch, with session ending on September 13. Committee hearings will finish this month, and starting in the beginning of September both houses will conduct long sessions on their respective floors.

At the July meeting, the Executive Board approved reaffirming an oppose position on SB 556 (Corbett). The bill would require public agencies, including public transit systems, to "label" employees and vehicles that are independent contractors or operated by independent contractors with a "NOT A GOVERNMENT EMPLOYEE" or "THE OPERATOR OF THIS VEHICLE IS NOT A GOVERNMENT EMPLOYEE" disclosure.

During the Legislature's summer recess and district work period, we met Assembly Members Ed Chau and Ian Calderon and the Chief of Staff for Assemblyman Curt Hagman and forwarded key information to those we were not able to meet with explaining the very negative impacts this bill would have on Foothill Transit. The bill was expected to be heard on the Assembly Floor very soon after their return from the summer break and the fact it hasn't is a positive sign. Our understanding is that the author is considering amendments. We will continue to work hard to defeat the bill or at least remove the onerous language.



The California Transit Association (CTA) continues their effort to resolve the impasse which has delayed the release of federal transit grants as a result of controversy over compliance of the Public Employees' Pension Reform Act (PEPRA) with federal 13(c)



labor regulations as they apply to transit employees. The U.S. Department of Labor (USDOL) believes the law likely violates the collective bargaining rights of some 20,000 mass transit employees. This impasse could adversely impact an estimated \$2 billion in grant funding for transit agencies in California whose government employees have collective bargaining agreements. This issue does not involve agencies who contract their services with private companies and therefore Foothill Transit is not impacted and our grants are not at risk.

The USDOL Secretary sent a letter to Governor Jerry Brown's office outlining the parameters under which the USDOL says a solution can be achieved. It remains to be seen whether any of the paths outlined in that letter are politically or technically viable, at least in the eyes of decision makers in Sacramento. CTA staff and their volunteer leaders continued a series of meetings with key representatives of both the Brown Administration and the California Legislature in an effort to resolve the issue. Fortunately, the USDOL on August 16 said that it will delay ruling on whether California's new pension law violates the 49-year-old federal statute that ties the funds to collective bargaining rights. A spokesman for the Labor Department confirmed that federal officials are holding off on making any decisions for now while they continue talks with Gov. Jerry Brown's office to resolve the issue.

Federal Legislative Issues:

Congress adjourned on August 2 for their five week summer recess. After days of debate, both the House and Senate set aside their appropriations bills for Transportation, Housing, and Urban Development (THUD) without passage. The House's THUD appropriations bill, H.R. 2610 stood at \$44.1 billion, reflecting cuts to levels lower than would result from a potential FY 2014 sequestration. The Highway Trust Fund (HTF) is projected to run out of cash by the end of 2014. Since 2008, Congress has tried and failed to agree on a plan to replace the fund's dwindling gas tax revenue. The 18.4-cents per gallon federal gas tax was last increased two decades ago. The Congressional Budget Office (CBO) told lawmakers that in order to keep the HTF solvent for the next decade, they would have to come up with a funding source which would be equivalent to a 10-cents a gallon hike in the gas tax. Suffice it to say that there is little appetite in the Congress to raise the gas tax, so some are looking to the states for creative ideas.

Ten large utility and transportation associations have written to the Secretary of Transportation requesting help with the uncertainty which has resulted from the decision by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) to begin applying Buy America requirements to utility relocation agreements. These agreements arise when utility companies are required to move their existing infrastructure to accommodate construction of federally supported transportation projects. In the past, Buy America requirements were only applied to federally funded transportation construction contracts, but not to utility relocation agreements. However,

Executive Board Meeting – 08/30/13
2013 Legislative Summary
Page 3

citing a provision in the MAP-21 transportation legislation enacted last year, the two DOT agencies have made a policy change and are now requiring State and local transportation agencies to ensure that all utility relocation agreements comply with Buy America requirements. Under this policy, utilities have to comply with Buy America rules even in cases where the relocation is funded with non-federal dollars. In the absence of clear guidance or a new rulemaking with this policy shift, many transportation projects are being delayed because utilities are uncertain as to what exactly Buy America compliance entails, and moreover, many materials used in utility relocation have long lead times and some are not even domestically available. While expressing support for Buy America provisions in general, the ten associations which signed the letter are requesting clarification of the new policy, a transition period for implementation, and waivers where appropriate, so that stymied transportation projects can move forward.

The issue has caused challenges with the construction of Foothill Transit's parking structure in Industry. There are two utility issues that have come up that we have been working hard to resolve. The first is a utility pole that sits approximately 8 feet inside a 44-foot wide driveway. During the design phase of the Project, we had asked Southern California Edison (SCE) to relocate the pole, so that it doesn't impede traffic flow. An Easement was developed between SCE and the City of Industry for final location of the utility pole. It is apparent that SCE would like to assist, but won't take action without some assurance that the Buy America issue is resolved and the federal government will not fine or penalize them for any mistake they might make by removing or relocating. To avoid delaying the opening of the project, we will place temporary "K" Rail Barriers to protect the pole and vehicles using the driveway. The second challenge is obtaining a communication system to the parking structure. Foothill Transit is requesting a phone line for emergency calls inside the parking structure. Verizon has been slow to certify Buy America compliance until they have a complete understanding of the issue and like SCE, will not be penalized for a mistake. We believe that we are close to resolving this particular Buy America issue with Verizon but we are also looking at alternative options such as a wireless solution to the parking structure.

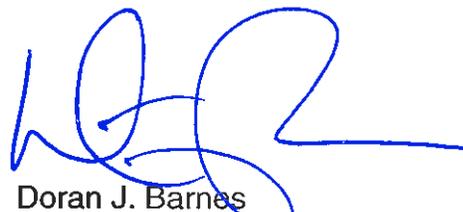
Financial Impact

The PEPRRA issue has not impacted our federal grants. The Buy America issue will require the rental of "K" Rail Barriers at a cost of approximately \$2,200 per month.

Sincerely,



David Reyno
Director of Government Relations



Doran J. Barnes
Executive Director

2013 Legislation Summary

Current as of 8/13/2013

(Amendments and Bills with updated status or requesting action are indicated in **bold**)

Bill No.	Author	Analysis	Potential Impacts	Location	Outside Agency Positions	Recommended Position
AB 5	Ammiano	The bill would enact the Homeless Person's Bill of Rights and Fairness Act. The bill would establish a number of rights for every person in the state, including those who are considered homeless including the right to move freely in the same manner as any other person in public spaces, including, but not limited to, plazas, parking lots, public sidewalks, public parks, public transportation, public streets, and public buildings, in the same manner as any other person, and without discrimination by law enforcement, public or private security personnel and the right to rest and sleep in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel as long as such rest does not maliciously or substantially obstruct a passageway. The purpose of the bill is to protect people without homes from violations of their basic human rights and the people who serve them from penalties and includes public transportation in its definition of public space.	The bill would mean that the homeless could freely loiter or sleep in a Foothill Transit parking structure or sleep on a Foothill Transit bus stop bench without any legal remedy.	Assembly Committee on Appropriations	CTA - Oppose	Oppose Position Adopted 5/24/2013
AB 8	Perea/Skinner	Existing law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission to provide, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that would transform California's fuel and vehicle types to help attain the state's climate change goals. AB 8 and SB 11 extends alternative fuel incentive programs including the Carl Moyer and AB 118 programs. These programs, which have been funded by tire fees, DMV registration fees, smog abatement fees, and vehicle plate fees, have provided funds for various projects to increase the usage of alternative fuels and help with the expansion of alternative fuel infrastructure.	The bill's passage would mean funds will continue to be available to assist Foothill Transit and other state transit agencies financially with fleets of natural gas vehicles and the infrastructure needed to maintain them.	Senate Committee on Transportation & Housing	CTA - Support	Support Position Adopted 2/22/2013
AB 574	Lowenthal	The bill establishes a program to fund sustainable communities strategies (developed pursuant to SB 375) as well as equivalent greenhouse gas (GHG) reducing strategies in rural areas, using cap and trade auction proceeds. The bill provides a statutory framework for implementing the sustainable communities allocations from cap and trade revenues, including key elements such as a per capita distribution of funds to California's regions, a competitive grant program guided by state policy objectives aligning with regional GHG reduction, and a performance-based approach to maximize investments. Additionally, the bill specifically includes funding for transit operations, maintenance, and infrastructure among the eligible investments for the funds.	This bill would provide a mechanism for which the transit industry and Foothill Transit would receive its fair share of the cap and trade auction proceeds.	Assembly Committee on Appropriations	CTA - Support	Support Position Adopted 4/26/2013

2013 Legislation Summary

Current as of 8/13/2013

(Amendments and Bills with updated status or requesting action are indicated in **bold**)

Bill No.	Author	Analysis	Potential Impacts	Location	Outside Agency Positions	Recommended Position
AB 1002	Bloom	Existing law imposes a registration fee to be paid to the Department of Motor Vehicles (DMV) for the registration of every vehicle or trailer coach of a type subject to registration, except those vehicles that are expressly exempted from the payment of registration fees. Existing law, until January 1, 2016, imposes a \$3 increase on that fee, \$2 of which is to be deposited into the Alternative and Renewable Fuel and Vehicle Technology Fund and \$1 of which is to be deposited into the Enhanced Fleet Modernization Subaccount. AB 1002 would raise the existing vehicle surcharge from its current \$4 to \$10. The funds would be distributed by the following breakdowns for cities to better achieve their SB 375 goals: 50% is proposed to be distributed to cities and counties on a per capita basis for planning and implementation of projects consistent with the purposes of SB 375 and an approved Sustainable Communities Plan. 40% is proposed to be distributed to transportation commissions and transit operators to support transit operations, and maintain and expand reduced fare programs, including transit passes for students, low income youth, seniors and persons with disabilities. 10% to MPO's and Regional Transportation Planning Associations for implementation of sustainable communities strategies.	This bill could provide Foothill Transit with additional operating funds, specifically for fare programs, including our college ridership pass program.	Assembly Local Government Committee	CTA - Support	Support Position Adopted 6/28/2013
AB 1257	Bocanegra	The bill will establish the State Energy Resources Conservation and Development Commission (Energy Commission) to thoughtfully evaluate and recommend the right natural gas strategies to further reduce greenhouse gas emissions and cultivate a robust clean energy economy. A declaration would be made with the passage of this legislation that there will be a state policy to reduce greenhouse gas emissions and that an efficient and effective strategy for the use of natural gas has potential for helping to meet these objectives. The Committee will develop strategies to maximize the benefits obtained from natural gas as an energy source. The Energy Commission will review many uses for natural gas, specifically the Commission will identify methods to increase the development of natural gas refueling infrastructure for transportation and protect against system capacity constraints.	The bill's passage will create an Energy Commission that will increase government participation in the creation and maintenance of a natural gas policy for the state.	Senate Committee on Appropriations		Support Position Adopted 3/29/2013
SB 11	Pavley/Rubio	Existing law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission to provide, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that would transform California's fuel and vehicle types to help attain the state's climate change goals. AB 8 and SB 11 extends alternative fuel incentive programs including the Carl Moyer and AB 118 programs. These programs, which have been funded by tire fees, DMV registration fees, smog abatement fees, and vehicle plate fees, have provided funds for various projects to increase the usage	The bill's passage would mean funds will continue to be available to assist Foothill Transit and other state transit agencies financially with fleets of natural gas vehicles and the infrastructure needed to maintain them.	Assembly Committee on Natural Resources	CTA - Support	Support Position Adopted 2/22/2013

2013 Legislation Summary

Current as of 8/13/2013

(Amendments and Bills with updated status or requesting action are indicated in **bold**)

Bill No.	Author	Analysis	Potential Impacts	Location	Outside Agency Positions	Recommended Position
		of alternative fuels and help with the expansion of alternative fuel infrastructure.				
SB 556	Corbett	This bill would require public agencies, including public transit systems, to "label" employees and vehicles which are independent contractors or operated by independent contractors with a "NOT A GOVERNMENT EMPLOYEE" or "THE OPERATOR OF THIS VEHICLE IS NOT A GOVERNMENT EMPLOYEE" disclosure.	Foothill Transit along with many transit systems throughout the state utilize independent, outside contractors to provide transit service, such as drivers/operators for buses and rail vehicles. This bill would place a financial burden on both transit systems and the independent contractors in order to meet the disclosure requirement. Furthermore, the bill would potentially have a detrimental impact to public perception, internally and externally. Transit systems aim to provide a sense of inclusiveness for employees and the "nongovernmental employee" disclosure may affect morale among employees by creating a sense of division. Secondly, the disclosure requirement would likely cause confusion to the public. Transit patrons may mistakenly perceive that operators and vehicles with the "nongovernment employee" disclosure reflects lesser qualifications or impacts public safety.	Assembly Floor	CTA – Oppose	Oppose Position Adopted 7/26/2013
SCA 4	Liu	Existing law under the California Constitution requires the approval of 2/3 of the voters of the city, county, or special district voting on any new or increase of an existing tax. SCA 4 and SCA 8 would provide that the imposition, extension or increase of a special tax by a local government for the purpose of providing funding for local transportation projects requires the approval of 55% of its voters voting on the proposition.	The new voter approval threshold could lead to more transportation and transit money and mean additional funding for Foothill Transit.	Senate Committee on Transportation & Housing	CTA - Support	Support Position Adopted 2/22/2013
SCA 8	Corbett	Existing law under the California Constitution requires the approval of 2/3 of the voters of the city, county, or special district voting on any new or increase of an existing tax. SCA 4 and SCA 8 would provide that the imposition, extension or increase of a special tax by a local government for the purpose of providing funding for local transportation projects requires the approval of 55% of its voters voting on the	The new voter approval threshold could lead to more transportation and transit money and mean additional funding for Foothill Transit.	Senate Committee on Transportation & Housing	CTA - Support	Support Position Adopted 2/22/2013

2013 Legislation Summary

Current as of 8/13/2013

(Amendments and Bills with updated status or requesting action are indicated in **bold**)

Bill No.	Author	Analysis	Potential Impacts	Location	Outside Agency Positions	Recommended Position
		proposition.				
H.R. 2288	Grimm (R, NY) McGovern (D, MA)	The bill establishes permanent parity between qualified, pre-tax and tax-free fringe transit and parking benefits at a maximum of \$220 per month. At the \$220 per month level, the federal fiscal impact is neutral, meaning no additional revenue measures are necessary. The bill also allows for future cost-of-living adjustments to the benefit level.	Would provide transit riders in general and Foothill Transit customers specifically with a tax benefit equal to those who drive their personal vehicles.	House Committee on Ways & Means	APTA - Support	Support Position Adopted 7/26/2013
S. 1116	Schumer (D, NY)	The bill would establish parity between the commuter and parking benefits at the current level of \$245 per month, but does not include a provision to offset the cost because the author wants to maintain the benefit at current levels.	Would provide transit riders in general and Foothill Transit customers specifically with a tax benefit equal to those who drive and park their personal vehicles.	Senate Committee on Finance	APTA – Support	Support Position Adopted 7/26/2013