



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 3 (Handout)

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Memorandum

TO: Legislation Committee

DATE: November 12, 2010

FR: Executive Director

W. I.

RE: November 2010 Election Wrap-up

The November 2010 mid-term elections brought about significant changes at the local, state and federal level that will have some clear and some still uncertain impacts on transportation policy in the San Francisco Bay Area. This memo highlights the key impacts that will be felt at each level of government.

Local Results

New Vehicle Registration Fees Approved in Five Bay Area Counties

Voters in five Bay Area counties — Alameda, Marin, San Francisco, San Mateo and Santa Clara — approved county-based \$10 annual vehicle registration fees (VRF) for transportation improvements. Collectively, these measures will generate almost \$39 million per year. As shown below, the measures failed in Contra Costa and Sonoma counties. Napa and Solano counties opted not to place the measure on the ballot in 2010. With the exception of San Mateo County, which is scheduled to sunset in 25 years, the measures are permanent. As discussed in greater detail on pages 3-4, future efforts to exercise this option will require two-thirds approval as a result of Proposition 26’s passage. However, according to the proponents of the VRF measures in the Bay Area, their measures are not subject to Proposition 26 as they were crafted to go into effect upon closing of the polls on election day, whereas Proposition 26 did not go into effect until the next day.

**Result of Vehicle Registration Fee Measures
in San Francisco Bay Area**

County	Outcome
Alameda	Passed: 63% Yes
Contra Costa	Failed: 54% No
Marin	Passed: 62% Yes
San Francisco	Passed: 60% Yes
San Mateo	Passed: 55% Yes
Santa Clara	Passed: 52% Yes
Sonoma	Failed: 58% No

Figure 1

Detailed expenditure plans were approved by each congestion management agency responsible for placing the measure on the ballot. As shown below, more than 60 percent of the combined funds raised will go towards local street and road repairs. For further details by county, see Attachment A.

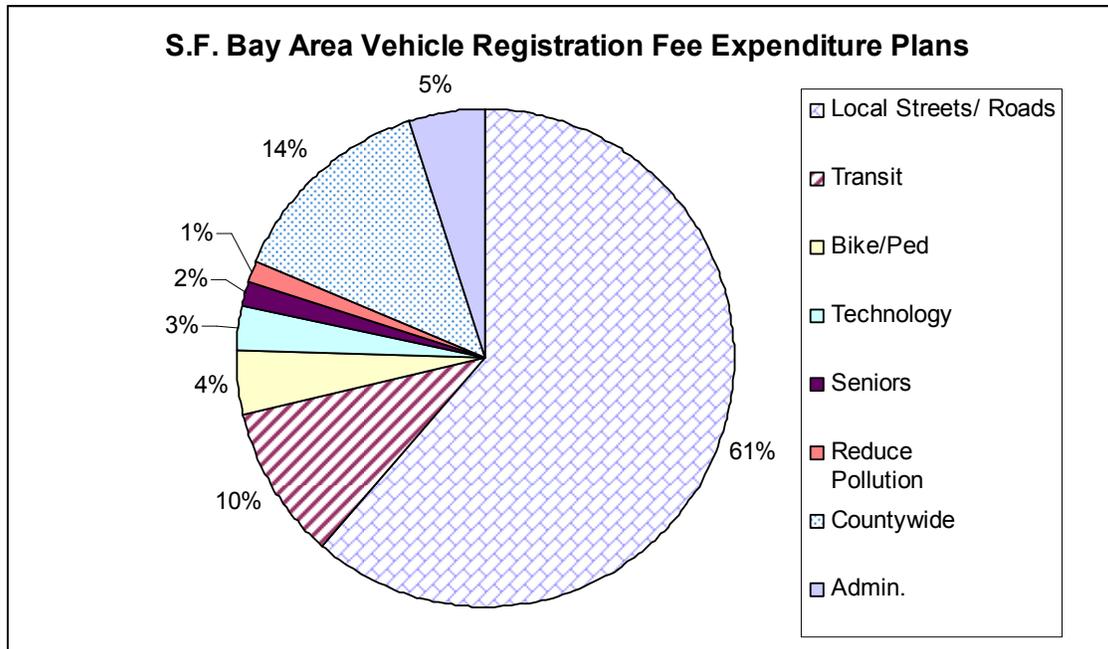


Figure 2

Statewide Results

State Initiatives Protect, But Also Complicate, the Transportation Funding Landscape

Most California voters agreed with MTC’s position on three of the four statewide ballot measures on which we took a position:

- Proposition 22 (Protect local funds and state transportation funds): Support (61 percent)
- Proposition 25 (Majority vote for state budget): Support (55 percent)
- Proposition 23 (Suspend state’s climate change law): Oppose (61 percent)

The exception was Proposition 26 (broadening the definition of “tax” at the local and state level) which MTC opposed, but which received 53 percent of the vote statewide. In the Bay Area, seven of nine counties opposed this measure, but Napa and Solano supported it with 52 percent and 54 percent, respectively.

This memo next highlights the impact of Proposition 22, designed to protect *existing* funding, before discussing Proposition 26, which raises questions about the legality of certain state transportation funds and certainly makes it more difficult to raise new funds.

Proposition 22 Protects Local & State Funds Dedicated to Transportation

The voters overwhelmingly supported Proposition 22 to make local transportation, property taxes and redevelopment funds off-limits from state diversion. The measure prohibits the state from diverting or borrowing any local funds that were approved by the voters, thereby fully securing the region’s local-option transportation sales taxes (the 0.5 percent sales taxes for transportation

that are imposed by many Bay Area counties) and the 0.25 percent sales tax that is dedicated to transit operations in each county, also known as Transportation Development Act (TDA) funds.

But the measure isn't limited to securing local funds from budget raids; it also requires that state taxes that are currently designated for transportation (the gasoline and diesel excise taxes and the sales tax on diesel fuel) be restricted to transportation purposes, as specified. As a result, the portion of the state gas tax that goes to cities and counties for local street and road repairs can no longer be borrowed, deferred or redirected by the state, as was done as recently as the current year (\$88 million deferred from Bay Area jurisdictions until May 2011). These provisions will greatly improve the predictability of state funds, helping cities and counties plan for the long-term.

Since 2007, more than \$5 billion in Public Transportation Account (PTA) was diverted to the General Fund. These diversions were not loans, subject to repayment, but redirection of PTA funds generally for purposes not commonly considered public transportation, such as school buses. Proposition 22 closes this loophole by defining the term "public transportation" in the State Constitution to fit with more commonly accepted definition. Although Proposition 22 does not apply retroactively, it remains unclear whether recent court decisions will require the state to repay any previously diverted funds.

Proposition 22 Also Reduces State Transit Assistance Funding

While Proposition 22 provides a tremendous benefit in terms of the reliability of transportation funding, it also locks in a formula that ultimately caps the share of PTA funds that can go towards State Transit Assistance (STA), the only state fund source eligible for transit operations. Specifically, Proposition 22 requires that revenue deposited in the PTA (currently limited to the sales tax on diesel fuel) be split 50/50 between STA and other public transportation purposes, including intercity rail and transit capital projects in the State Transportation Improvement Program (STIP). This is a 31 percent reduction from current law (as amended by the gas tax swap approved last March), which directs 75 percent of PTA funds to STA. On the positive side, it is important to note that Proposition 22 provides far greater security and predictability than current law, which could reduce STA funding by a simple majority vote of the Legislature. In addition, Proposition 22 guarantees that these funds will be disbursed in a timely manner, as the funds are continuously appropriated and therefore not subject to the annual budget process.

Under Proposition 22, we estimate a statewide STA funding level of approximately \$240 million in FY 2011-12, rather than the \$350 million that was estimated last March when the gas tax swap was adopted. Attachment B provides estimates for each of the region's transit operators under this level. It's important to note that the actual funding level will depend on the price of diesel fuel and the amount sold. Since demand for diesel fuel is very dependent on goods movement, diesel prices dropped dramatically in the beginning of the recession, reaching a low in March 2009 and growing gradually ever since. In the short term, the California Energy Commission (CEC) projects a 7 percent price jump in FY 2010-11 relative to FY 2009-10. In terms of consumption, CEC projects diesel demand to grow by about 40 percent between 2007 and 2030.

Proposition 26 Will Hinder Local, Regional & State Level Revenue Options

Proposition 26 will greatly curtail the ability of local, regional or state government to raise new revenue, whether in the form of user fees that provide a direct benefit to the fee-payer, or

mitigation fees, to offset the societal costs of a particular activity. A key test is whether a fee provides a benefit to a non-fee payer. If it does, it is now generally considered a tax.

The ultimate impact of Proposition 26 will likely be determined in court, but the essence of the law is to redefine many categories of government levies as taxes, and therefore subject them to a two-thirds vote at both the state and local/regional level. Specific transportation-related fees that would be considered taxes in the future include:

- Fees on motor fuels, such as the proposed regional gas fee that was considered as a way to mitigate the greenhouse gas emissions generated from motor vehicles.
- Vehicle registration fees (VRF), such as the \$1 fee MTC imposes through the Safe Freeways and Expressways (SAFE) program to support motorist aid services and freeway service patrol, and the Bay Area Air Quality Management District's \$4 Transportation Fund for Clean Air fee. The five Bay Area counties that won support for a new \$10 VRF are "grandfathered" in, as their measures' took effect before Proposition 26. Future efforts to raise vehicle registration fees under the authority granted to counties by SB 83 (Hancock), 2009, will be subject to a two-thirds vote.

Impact on Gas Tax Swap Unclear

Proposition 26 also contains a retroactive provision applicable to state taxes that were raised in 2010 without a two-thirds vote. Specifically, the measure states: "Any tax adopted after January 1, 2010, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section." Since the gas tax swap of March 2010 did not receive a two-thirds vote but did result in tax increases for individual tax payers (because the sales tax and the excise tax are imposed at different points in the supply chain,) it appears vulnerable.

However, if the Legislature fails to reaffirm the gas tax swap by a two-thirds vote within 12 months, it is not clear whether Proposition 26 would simply invalidate the *tax increases* contained in the swap (a 17.3 cents per gallon gasoline excise tax that will be adjusted annually and an increase of 1.75 percent in the sales tax on diesel fuel, effective July 2011), or throw out the entire statute, thereby restoring transportation funding to its pre-swap structure, before gasoline was exempted from the state sales tax. In the ballot summary, the Legislative Analyst's Office stated that Proposition 26 would make the entire gas tax swap statute invalid, not simply the tax increases it included. Since Proposition 26 provides 12 months before the retroactive provisions take effect, these issues may be unresolved for some time and may ultimately require resolution by the courts.

Changes to the Bay Area's State Delegation

The voters will send five new faces to Sacramento, representing the region's Assembly delegation, as shown in Attachment C. On the Senate side, all incumbents were reelected, with the exception of Assembly Member Noreen Evans, who was elected to the 2nd Senate District, currently held by Senator Patricia Wiggins, who is retiring.

Changes at the Federal Level

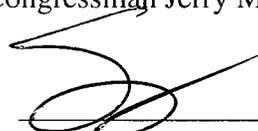
New Leadership on the House Transportation & Infrastructure Committee

The Republican Party's victory in the U.S. House of Representatives raises questions about many issues facing the next Congress, including the status of surface transportation policy. The most direct change for federal transportation policy resulting from the mid-term elections will be a change in leadership of the Transportation & Infrastructure Committee, which oversees surface transportation policy in the U.S. House of Representatives. Outgoing Chair Jim Oberstar (D-MN), who served 18 terms in Congress, will no longer have the chance to advance his proposal to reform and boost funding for the federal surface transportation system.

In the last Congress, the White House and Congressional leaders in both parties steadfastly rejected calls by a wide number of experts for an increase in the user fees that finance transportation — the gasoline and diesel excise taxes. Instead, they supported the transfer of roughly \$34.5 billion in General Fund revenues to the Highway Trust Fund (HTF) to keep funding stable at the funding levels approved in the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) levels. As we have noted often in the past, existing HTF revenues fall substantially short of maintaining even the current funding levels under SAFETEA, let alone allowing for increases to address the gaping shortfalls throughout the system just to maintain it in a condition of good repair.

Bay Area Congressional Delegation Holds Its Ground

Three-term Senator Barbara Boxer withstood a challenge from former Hewlett-Packard chief executive Carly Fiorina. Similarly, Bay Area House members retained their seats. The vote count has not yet been finalized in District 11, where Congressman Jerry McNerney is holding a slim lead against David Harmer.



Steve Heminger



**SAN FRANCISCO BAY AREA VEHICLE REGISTRATION FEE MEASURES
APPROVED BY VOTERS IN NOVEMBER 2010**

Agency	Amount (in millions) Raised @ \$10 (annually)	Election Results Majority vote required (% yes)	Programs in the Expenditure Plan (\$ in Millions)								Sunset
			Local Streets/ Roads	Transit	Bike/Ped	Technology	Seniors	Reduce Pollution	Countywide	Admin.	
Alameda Congestion Management Agency "Alameda County Transportation Improvement Measure" Measure F	\$11.0	62.6%	60%	25%	5%	10%				5%	no
Marin Transportation Authority "Marin County Transportation Improvement Measure" Measure B ¹	\$2.0	62.4%	40%					35%	25%	5%	no
San Francisco Transportation Authority Measure AA	\$5.0	59.6%	50%	25%	25%					5%	no
San Mateo C/CAG "Local Transportation Improvements in San Mateo County" Measure M ²	\$6.7	54.8%	50%							50%	25 years
Santa Clara Valley Transportation Authority "Traffic Congestion Relief and Road Improvement Measure" Measure B ³	\$14.0	52.2%	80%							15%	no
Total Estimated Revenue for all Measures (annually)	\$38.7		\$23.8	\$3.8	\$1.7	\$1.0	\$0.7	\$0.5	\$5.3	\$1.9	
Regional Total			61.4%	9.8%	4.4%	2.7%	1.7%	1.2%	13.7%	5.0%	100.0%

Notes:

- The dollar values cited above are estimates of annual allocations to each program after deducting for the Agency's administrative costs allowed per statute. Statute limits administrative costs to 5% of the revenue collected.
- MTC, by Resolution 3977, finds the Expenditure Plans proposed by above counties to be consistent with the regions RTP.

Footnotes:

1. Marin's Reduce Pollution program consists of: Alternative Fuels, Commuter Alternatives (TDM) and Safe Routes to School
2. San Mateo Countywide program includes: transit (operations, senior and disabled), Safe Routes to Schools, reg'l traffic improvements, water pollution prevention
3. Santa Clara Countywide program includes: matching State/Fed'l/Reg'l funds for roadway projects, technology (i.e. traffic signals, safety and traveler info systems), environmental mitigation

Source: Terry Bowen, Gray-Bowen on 11/4/10.

**ESTIMATE OF SAN FRANCISCO BAY AREA STATE TRANSIT ASSISTANCE FUNDING
REVISED BASED ON PASSAGE OF PROPOSITION 22 (NOVEMBER 2010)**

STATE TRANSIT ASSISTANCE	<i>FY 2011-12</i>	<i>FY 2012-13</i>
STATEWIDE REVENUE	\$ 241,000,000	\$ 237,000,000
MTC REVENUE-BASED FUNDING	\$ 65,210,231	\$ 64,127,904
Apportionment Jurisdictions		
AC Transit	\$ 7,869,522	\$ 7,738,908
ACE	\$ 251,875	\$ 247,695
BART	\$ 15,795,416	\$ 15,533,252
Benicia	\$ 10,993	\$ 10,810
Caltrain	\$ 3,091,495	\$ 3,040,184
Central Contra Costa Transit Authority (County Connection)	\$ 353,511	\$ 347,643
Dixon	\$ 3,168	\$ 3,116
Eastern Contra Costa Transit Authority (TriDelta)	\$ 157,733	\$ 155,115
Fairfield	\$ 66,624	\$ 65,519
Golden Gate Bridge, Highway and Transit District	\$ 2,538,354	\$ 2,496,223
Healdsburg	\$ 2,296	\$ 2,258
Livermore-Amador Transit (LAVTA)	\$ 121,117	\$ 119,106
Napa Transit Services	\$ 24,787	\$ 24,375
Rio Vista	\$ 790	\$ 777
SamTrans	\$ 3,146,497	\$ 3,094,273
San Francisco MTA	\$ 21,664,220	\$ 21,304,648
Santa Rosa	\$ 83,215	\$ 81,834
Sonoma County Transit	\$ 96,520	\$ 94,918
Union City	\$ 21,345	\$ 20,990
Vallejo	\$ 396,447	\$ 389,867
Valley Transportation Authority	\$ 9,341,970	\$ 9,186,916
Western Contra Costa Transit Authority (WestCAT)	\$ 172,336	\$ 169,476
REVENUE BASED AMOUNT	\$ 65,210,231	\$ 64,127,904
POPULATION BASED AMOUNT	\$ 23,114,934	\$ 22,731,284
BAY AREA STA TOTAL	\$ 88,325,165	\$ 86,859,187

**ESTIMATE OF SAN FRANCISCO BAY AREA STATE TRANSIT ASSISTANCE FUNDING
REVISED BASED ON PASSAGE OF PROPOSITION 22 (NOVEMBER 2010)**

STATE TRANSIT ASSISTANCE	<i>FY 2012</i>	<i>FY 2013</i>
<i>Statewide STA Funding</i>	\$ 241,000,000	\$ 237,000,000
MTC POPULATION-BASED FUNDING	\$ 23,114,934	\$ 22,731,284
Apportionment Jurisdictions		
Northern Counties/Small Operators		
Marin	\$ 694,353	\$ 682,829
Napa	\$ 368,759	\$ 362,639
Solano	\$ 1,151,178	\$ 1,132,072
Sonoma	\$ 1,294,610	\$ 1,273,123
CCCTA	\$ 1,336,496	\$ 1,314,314
ECCTA	\$ 781,690	\$ 768,716
LAVTA	\$ 542,174	\$ 533,176
Union City	\$ 198,024	\$ 194,738
WestCAT	\$ 188,403	\$ 185,276
Vallejo	\$ -	\$ -
SUBTOTAL	\$ 6,555,689	\$ 6,446,881
Regional Paratransit		
Alameda	\$ 838,833	\$ 824,910
Contra Costa	\$ 433,489	\$ 426,294
Marin	\$ 96,846	\$ 95,238
Napa	\$ 63,244	\$ 62,195
San Francisco	\$ 662,281	\$ 651,288
San Mateo	\$ 366,707	\$ 360,620
Santa Clara	\$ 759,777	\$ 747,167
Solano	\$ 180,411	\$ 177,417
Sonoma	\$ 200,584	\$ 197,255
SUBTOTAL	\$ 3,602,172	\$ 3,542,385
Lifeline		
Alameda	\$ 1,849,161	\$ 1,818,469
Contra Costa	\$ 843,595	\$ 829,594
Marin	\$ 182,217	\$ 179,192
Napa	\$ 114,729	\$ 112,825
San Francisco	\$ 1,019,063	\$ 1,002,149
San Mateo	\$ 479,162	\$ 471,209
Santa Clara	\$ 1,464,481	\$ 1,440,175
Solano	\$ 371,182	\$ 365,021
Sonoma	\$ 425,172	\$ 418,115
SUBTOTAL	\$ 6,748,762	\$ 6,636,750
MTC Regional Coordination Program	\$ 6,208,311	\$ 6,105,269
POPULATION BASED GRAND TOTAL	\$ 23,114,934	\$ 22,731,284

San Francisco Bay Area's State Assembly Districts
2011-12 Legislative Session

Name	District	Incumbent or New?
Jared Huffman – D	6 – San Rafael	Incumbent
Michael Allen – D	7 – Santa Rosa	New
Mariko Yamada – D	8 -- Davis	Incumbent
Alyson Huber – D	10 -- Lodi	Incumbent
Susan Bonilla -- D	11 -- Martinez	New
Fiona Ma – D	12 – San Francisco	Incumbent
Tom Ammiano – D	13 – San Francisco	Incumbent
Nancy Skinner – D	14 – Berkeley	Incumbent
Joan Buchanan – D	15 – San Ramon	Incumbent
Sandre Swanson – D	16 – Oakland	Incumbent
Cathleen Galgiani – D	17 – Tracy	Incumbent
Mary Hayashi – D	18 -- Hayward	Incumbent
Jerry Hill – D	19 --S. San Francisco	Incumbent
Bob Wieckowski – D	20 – Fremont	New
Rich Gordon – D	21 – Redwood City	New
Paul Fong – D	22 – Mountain View	Incumbent
Nora Campos – D	23 – San Jose	New
Jim Beall, Jr. – D	24 – San Jose	Incumbent