Agenda Item 6b

METROPOLITAN TRANSPORTATION COMMISSION

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Memorandum

TO: Legislation Committee DATE: February 10, 2012

FR: Executive Director W. I. 1131

RE: S. 1813: Moving Ahead for Progress in the 21st Century (MAP-21)

Background

As you know, the Senate Environment and Public Works Committee introduced the highway title of its two-year surface transportation proposal, MAP 21, last November. As we reported at your December meeting, MAP 21 is a two year bill covering FY 2011-2012 and FY 2012-2013. In December, the Commerce Committee approved the Freight title of the bill, followed by the Senate Banking Committee, which approved the bill’s Transit title, and lastly, the Senate Finance Committee approved a bill that transfers $5.5 billion to the Highway Account of the Highway Trust Fund by September 30, 2013 and a total of $10.5 billion into the Highway Trust Fund over the next decade. This memo provides an overview of the key changes in the Senate Banking Committee’s transit title and recommends that MTC take a support position on MAP 21 as a whole.

Recommendation: Support and Seek Amendments

Discussion

The Senate Banking Committee’s transit title includes the following policy changes:

- Establishes a system to monitor and manage public transportation assets to improve safety and increase reliability and performance;
- Establishes a State of Good Repair program to assist public transportation systems in addressing the backlog of maintenance needs; and
- Streamlines the New Starts process for transit construction to accelerate project delivery by eliminating duplicative steps to speed up federal decision-making.

New Transit Asset Management Plan & Performance Targets

Like the highway title, the transit title of MAP 21 establishes a new process for setting performance targets and tracking progress towards those targets. The bill requires the Secretary to establish a national transit asset management system which shall require all recipients of federal funds to develop a transit asset management plan and report annually on the condition of their system. The bill further requires the Secretary to issue a rule establishing performance measures based on the state of good repair standards and requires each transit agency receiving federal funds to establish performance targets in relation to the national measures.

New State of Good Repair Formula Program

The most significant program change in S. 1813 is the creation of a new State of Good Repair Program, which replaces the current Fixed Guideway and Rail Modernization and Bus & Bus Facilities programs. The new program has two components, a "fixed guideway" portion, which receives $1.9 billion and a "high intensity bus" portion, which receives $112 million. While our formula share of the new program is close to our share of the Fixed Guideway Modernization Program (7.7 percent vs. 8.0 percent) because funding for the State of Good Repair program is $710 million lower than the combined funding for Bus & Bus Facilities and Fixed Guideway Modernization, the Bay Area's share of funding drops by about $24 million in comparison to current funding from these two programs. However, we estimate that when *all* of MAP 21's formula programs are included, the region would receive approximately $401 million, a 1 percent increase from current law, as shown below.

Proposed Transit Formula Funding in MAP-21, FY 2012

Dollars in millions

	Nationwide			**Bay Area**		
Program	**Current Law**	**MAP-21**	**Percent Change**	**Current Law**	**MAP-21**	**Percent Change**
Urbanized Area Formula (5307)	$4,540.8	$5,014.1	+10%	$212.0	$235.2	**+11%**
Current Fixed Guideway Rail Modernization (5309)*	$1,656.2	Merged with Fixed Guideway State of Good Repair	--	$132.7	Merged with Fixed Guideway State of Good Repair	--
Current Bus & Bus Facility (5309)	$974.2		--	$42.9		--
Subtotal (5309)/ State of Good Repair (5337) in MAP 21	$2,630.3	$1,920.7	-27%	175.6	$152.2	**-13%**
Elderly &Disabled (5310)	$133.5	$197.9	--	$2.9	$5.9	--
Job Access & Reverse Commute (5316)	$176.5	$155.1	-12%	$3.4	$7.3	**+106%**
New Freedom (5317)	$100.7	Merged with Elderly & Disabled	NA	$2.5	Merged with Elderly & Disabled	--
Human Services Subtotal	$410.6	$353.0	-14%	$8.9	$13.2	**+49%**
Total	**$7,581.8**	**$7,287.7**		**$396.5**	**400.7**	**+1%**

***** Numerical references denote the U.S. Code references to these programs in Chapter 49 or the bill.

Note: Current law is an estimate for FY 2012 based on partial year apportionment and historic average for discretionary programs.

Eligibility for Fixed Guideway Capital Investment Grants Expanded to Bus Rapid Transit & "Core Capacity" Projects

The bill revises the definition of "fixed guideway" to include bus rapid transit projects that meet specified criteria and eliminates the three tier system for grants known as Small Starts and Very Small Starts. It also adds a new category of project to be eligible for Capital Investment Grant funds, a so-called "core capacity project," defined as a project on an existing fixed-guideway system that adds capacity and functionality, including double tracking, signalization improvements, electrification, expanding system platforms, and construction of infill stations. This broadened eligibility would likely benefit our region, considering the types of upgrades that are needed for our region's aging commuter rail systems. One good example is the "BART Metro" project that scored so well in our recent performance assessment for Plan Bay Area.

Changes to Capital Investment Grant Process

The bill seeks to streamline the full funding grant agreement (FFGA) process by authorizing the Secretary of the Department of Transportation to enter into an "early systems work agreement" if a record of decision has been issued for the project, enabling certain work to proceed in advance of an FFGA if such an agreement would speed up the project's construction and save money. It also *requires* the Secretary to use a special process of "warrants" to streamline the review of projects with a total cost of less than $100 million or where federal funds comprise no more than 50 percent of the total cost of the project. The bill also authorizes several projects to proceed through the FFGA process simultaneously as an "interrelated program of projects" thereby speeding up the project approval process.

Bill Could Be Strengthened in Several Areas

Similar to our analysis of the bill's highway title last December, we do find several areas where the transit title to MAP 21 could be improved. As Congress works to reconcile the two bills, we would recommend the following:

- Eliminate the Growing & High Density States and Transit Intensive Cities Program tiers within the Urbanized Area program. These formula set-asides were added in SAFETEA and result in less funding than the Bay Area would otherwise receive from the Urbanized Area formula program. Revisiong these portions of the formula would increase funding to our region by roughly **$18 million** per year.
- Remove the provisions that allow transit operators with bus fleets below 100 to use between 25-50 percent of their funding for operating expenses. Considering our region's enormous rehabilitation and replacement funding shortfalls, MTC believes the federal prohibition on the use of federal transit funds for operating expenses in large urban areas should remain intact.
- The Clean Fuels Program: While encouraging operators to shift to cleaner fuels is a laudable goal, at $58 million per year nationwide, this competitive program is too small to make a significant difference. State and federal regulatory policies can have a much greater impact in this regard and the funds could be put to more effective use through the urbanized area formula program. The bill could create incentives for purchasing cleaner vehicles much more efficiently by authorizing higher federal shares of clean vehicle costs.
- Passenger Ferry Grant Program: Consistent with the overall goal of consolidation and moving away from "specialty programs," at $35 million per year, this competitive program is too small to make sense at a national level. Instead, these funds should be

directed to the 5307 Urbanized Area formula or the State of Good Repair Program, both of which make ferries eligible.

Conclusion
Overall, MAP 21 makes structural improvements to the nation's surface transportation program that MTC has long supported, including consolidation of highway and transit programs, a new focus of state of good repair, an emphasis on performance measures and eliminating earmarks. The bill holds the Bay Area's funding from the highway and transit formula programs steady, despite having some formula changes that are less than optimal. While it would be preferable to have the next authorization bill cover a larger period of time as proposed in H.R. 7, the policy and funding provisions in H.R. 7 are so inferior to the Senate approach that we would much prefer a shorter-term bill.

While Congress is moving quickly, if S. 1813 and H.R. 7 are approved on the floor of each house within the next week or two, the challenge of reconciling the significant policy and funding differences between the bills will begin. As such, we anticipate a need for yet another extension to the latest surface transportation extension, which expires on March 31. For the next two months, staff will work with our Washington D.C. representative, our Bay Area partner agencies and like-minded transportation organizations across the nation to seek amendments that enhance the policy advances and maximize the region's share of funding from MAP 21.

Known Positions

Support
American Society of Civil Engineers

Opposed
American Motorcyclist Association
National Recreation and Park Association
National Cattleman's Beef Association
Heritage Foundation

Source: http://www.opencongress.org/

Steve Heminger

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