

Metropolitan Transportation Commission Programming and Allocations Committee

September 11, 2013

Item Number 4d

FTA Grants Status Update

Subject: Update on the status of FTA grants in the region, many of which are being affected by Department of Labor review of issues related to the California Public Employees' Pension Reform Act of 2013 (PEPRA).

Background: Approximately \$1.6 billion in Federal Transit Administration (FTA) grants to California transit operators are being held up by a dispute over whether PEPRA conflicts with federal transit labor protections. Bay Area transit operators have submitted approximately \$502 million in grant applications to FTA that have not yet been awarded (as of September 3) and are potentially subject to the PEPRA issue. Another \$88 million of grants could be affected once they are submitted to FTA. These grants are listed in Attachment A. The totals represent a worst-case estimate of the scale of the PEPRA issue in the region, as neither MTC nor the FTA regional office have been notified of which specific grants are affected, and it is possible that some of the grants on the list could be awarded even if there is no resolution to the dispute. The following Bay Area transit operators are not affected, because either they have pension systems outside of CalPERS and are not affected by PEPRA, their employees are represented by unions that have not objected to the grants, or because they contract for service with private firms that are not affected by PEPRA: SFMTA, ACE, Fairfield and Suisun Transit, Marin Transit, Napa County Transportation and Planning Agency, Vacaville, Water Emergency Transportation Authority, and Western Contra Costa County Transit Authority.

PEPRA establishes limits on pension benefits, and requires new local public retirement system members to have lower retirement formulas and higher retirement ages, and to pay at least 1/2 of the actuarial annual normal cost of their benefit plans as member contributions.

As part of the grant approval process, Section 5333(b) of the Federal Transit Act (49 U.S.C. § 5333(b)), better known as Section 13c after its original section number, requires that certain employee protective arrangements must be certified by the Department of Labor (DOL) and in place before federal transit funds can be released. For covered employees, these arrangements include preserving their rights and benefits, continuing their collective bargaining rights, and protecting them against a worsening of their employment conditions.

To implement Section 13c, FTA refers transit operators' grant applications to DOL for review, who then notifies the unions that represent the operator's workers. If a union files an objection claiming that the operator has violated Section 13c, and DOL determines that the objection is valid, DOL may refuse to certify the operator's protective arrangements, in which case FTA cannot award the grant.

Since PEPRA was enacted, transit unions have objected to numerous grants submitted by California operators on the grounds that PEPRA reduces their collective bargaining rights in violation of Section 13c. As of August 26, DOL

has not yet certified the protective arrangements pertaining to most of the grants submitted by California transit operators, resulting in the current funding log jam.

Attachment B is a letter from the Secretary of Labor to Governor Brown concerning the PEPRA/13c issue. While the letter refers to DOL making a determination on Los Angeles County MTA (LACMTA) grants on August 16, at the time this memo was finalized, DOL had not yet made such a determination.

Issues:

Lapsing Funds. The grant applications that are awaiting review/award include \$12.7 million in funds that will lapse if the grants are not awarded by September 30, 2013 (see Attachment A). Lapsed funds are generally lost to a specific project and redistributed nationally in the subsequent fiscal year. The funds at risk of lapsing include about \$2.1 million in Section 5316 Job Access & Reverse Commute funds for Lifeline Transportation Program projects. Loss of the funds would be a major blow for the Lifeline program, which supports projects that address mobility needs in low-income communities throughout the region.

Operating Impacts. Several of the grants currently on hold at FTA include funds for operating assistance or preventive maintenance. Delaying the award of these grants could eventually lead to cash flow problems or service reductions by operators that depend on FTA funds to support operations.

Capital Project Impacts. Most of the grants submitted by Bay Area operators are for capital projects, such as extending BART to Berryessa and replacing transit vehicles. Further delays in awarding capital grants could eventually lead to cash flow issues or delays in project schedules.

Credit Ratings. Moody's Investors Service recently placed the debt of 15 California transit operators under review for a possible ratings downgrade due to the potential loss of federal grants. The affected Bay Area operators are AC Transit, ACE, BART, Caltrain, SFMTA, SamTrans, VTA and WestCAT. The Moody's notice is included as Attachment C.

PEPRA Exemption. A bill introduced in the state legislature, AB 160 (Alejo), would exempt transit workers from PEPRA, but has not been enacted. Staff will update the Committee on the latest legislative activity regarding this issue at the Committee's meeting next week.

Recommendation: None – information item

Attachments:

- A. FTA Grants Status as of August 26, 2013
- B. Letter from Secretary of Labor to Governor
- C. Moody's Investors Service notice

FTA Grants for Bay Area Transit Operators Status as of September 3, 2013

Programming & Allocations Committee, September 11, 2013, Item 5c, Attachment A

Grantee Name	Grant #	Estimated Obligation Amount	Date of Lapse (earliest date if mix of years)	9/30/13 Lapsing Amount	Notes
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Grants Submitted to FTA That Include Funds That Will Lapse If Not Awarded by 9/30/13

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-04-0258	\$7,390,000	9/30/2013	\$3,640,000	Lapsing funds for bus replacements
SAN MATEO COUNTY TRANSIT DISTRICT	CA-04-0221-00	\$8,450,000	9/30/2013	\$3,500,000	Lapsing funds for San Carlos Transit Center
PETALUMA, CITY OF	CA-03-0817-00	\$2,500,000	9/30/2013	\$2,500,000	Lapsing funds for SMART development
METROPOLITAN TRANSPORTATION COMMISSION	CA-37-X177-00	\$4,214,416	9/30/2013	\$1,866,750	Lapsing funds for Lifeline services
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	CA-04-0212-00	\$4,138,000	9/30/2013	\$970,000	Lapsing funds for Signage/Station Improvements
SANTA ROSA, CITY OF	CA-37-X170-00	\$249,123	9/30/2013	\$124,214	Lapsing funds for Lifeline services
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT	CA-37-X187-00	\$54,367	9/30/2013	\$45,986	Lapsing funds for Lifeline services
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-90-Z051	\$36,704,357	9/30/2013	\$27,350	Lapsing funds for preventive maintenance
GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT	CA-90-Y963-00	\$1,675,106	9/30/2013	\$17,513	Lapsing funds for radio replacement
Subtotal		\$65,375,369		\$12,691,813	

Grants Submitted to FTA That Do Not Include Funds Lapsing 9/30/13

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-03-0818-01	\$141,766,415	9/30/2017		BART to Berryessa
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	CA-54-0007-00	\$105,088,331	9/30/2016		Car Replacement, other capital projects
SAN MATEO COUNTY TRANSIT DISTRICT	CA-90-Z043-00	\$25,905,791	9/30/2018		Bus replacements, PM, ADA Operating Asst
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT	CA-04-0264-00	\$25,000,000	9/30/2014		AC Transit BRT project
PENINSULA CORRIDOR JOINT POWERS BOARD	CA-05-0276-00	\$22,597,605	9/30/2015		Positive Train Control, track & signal rehab
PENINSULA CORRIDOR JOINT POWERS BOARD	CA-90-Z042-00	\$19,536,811	9/30/2015		Positive Train Control, vehicle rehab
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-95-X149-00	\$18,540,000	N/A		Capital Expressway LRT Extension
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	CA-90-Z079	\$16,715,458	9/30/2015		Car Replacement, other capital projects
METROPOLITAN TRANSPORTATION COMMISSION	CA-34-0001	\$10,506,277	9/30/2016		Bus Replacements
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT	CA-04-0263	\$7,500,000	9/30/2014		Farebox Replacement
PENINSULA CORRIDOR JOINT POWERS BOARD	CA-54-0004	\$6,641,018	9/30/2016		Track & signal rehab
MARIN COUNTY TRANSIT DISTRICT dba MARIN TRANIST	CA-90-Z068-00	\$5,544,334	9/30/2018		Bus replacements, Lifeline, ADA Operating Asst
CENTRAL CONTRA COSTA TRANSIT AUTHORITY	CA-90-Z065-00	\$3,598,803	9/30/2018		Bus replacements, Lifeline, ADA Operating Asst
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-95-X243	\$4,651,740	N/A		Preventive Maintenance
CENTRAL CONTRA COSTA TRANSIT AUTHORITY	CA-58-0018-00	\$4,320,000	9/30/2014		Electric buses
SOLANO COUNTY TRANSIT	CA-90-Z045	\$3,896,096	N/A		Operating assistance
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-54-0002	\$2,951,660	9/30/2016		Preventive Maintenance, rail replacement
GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT	CA-70-X016-00	\$2,400,000	N/A		Ferry Facilities Rehab
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-95-X216-00	\$2,300,065	N/A		LRT Signal Priority, Stevens Crek BRT
LIVERMORE-AMADOR VALLEY TRANSIT AUTHORITY	CA-90-Z080-00	\$1,702,134	9/30/2014		PM, ADA Operating Asst
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT	CA-95-X335-00	\$1,225,539	N/A		San Leandro BART Access Impr.
SOLANO COUNTY TRANSIT	CA-95-X230-00	\$1,000,000	9/30/2018		Preventive Maintenance
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	CA-05-0274-01	\$957,204	9/30/2014		Rail Replacement

Grantee Name	Grant #	Estimated Obligation Amount	Date of Lapse (earliest date if mix of years)	9/30/13 Lapsing Amount	Notes
SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY	CA-70-X018-00	\$856,462	N/A		Ferry Maintenance Facility
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	CA-05-0277-00	\$726,392	9/30/2015		Rail Rehab
SOLANO COUNTY TRANSIT	CA-90-Z083	\$272,010	9/30/2018		ADA Operating Assistance
GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT	CA-95-X252-00	\$233,728	N/A		Radio replacement
PETALUMA, CITY OF	CA-90-Z109	\$55,731	9/30/2018		Capital projects
Subtotal		\$436,489,604			

Grants Not Yet Submitted to FTA

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	CA-95-X236	\$50,440,000	N/A		Hayward Maintenance Center
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT	CA-90-Z058	\$16,932,231	9/30/2018		Capital projects, Lifeline operating assistance
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT	CA-95-X021-00	\$10,515,624	N/A		Line 51 Corridor
SOLANO COUNTY TRANSIT	CA-90-Z078	\$7,548,695	9/30/2015		Operating Assistance, capital projects
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT	CA-95-X253	\$1,802,676	N/A		Spectrum Ridership (Transit Perf. Init.)
SOLANO COUNTY TRANSIT	CA-04-0273	\$760,000	N/A		Bus replacement
Subtotal		\$87,999,226			

Total Grants Potentially Affected by PEPRA Issue		\$589,864,199		\$12,691,813	
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SECRETARY OF LABOR
WASHINGTON, D.C. 20210

August 1, 2013

The Honorable Edmund G. Brown, Jr.
Governor of California
Sacramento, CA 95814

Dear Governor Brown:

I write in response to your letter of May 29, 2013, in which you urge the Department of Labor (Department) to “certify the release of grants by the Federal Transit Administration (FTA) to California’s mass transit providers,” which totals \$1.6 billion for Fiscal Year 2013. Over the past several months, we have continued to work with your staff in an effort to address the issues outlined in your letter. The Department appreciates the fiscal challenges faced by California, including the solvency of the State’s public pension systems. We also share your commitment to the collective bargaining rights of public employees.

At the same time, we understand the devastating impact that a loss of federal transit dollars would have on transit services, commuters, jobs, and economic development in California. Therefore, in order to give the State additional time to resolve the impact of its newly-enacted Public Employee Pension Reform Act (PEPRA) on transit workers who are protected by Section 5333(b) of the Federal Transit Act, commonly referred to as Section 13(c), we will wait until August 16, 2013, before we issue a determination on releasing federal funds to the Los Angeles County Metropolitan Transportation Authority or any other transit district in which such impacts remain unmitigated.

Before the FTA may release funding to transit providers, Section 13(c) requires this Department to certify that protective arrangements are in place that preserve the collective bargaining rights of transit workers (including their pension rights and benefits) and continue their right to engage in collective bargaining. Recently, Wisconsin, New Jersey, Ohio and Massachusetts all passed laws that reformed the collective bargaining process, but in each case the transit agency, unions and the state came up with solutions in order to avoid a conflict with Section 13(c). These solutions ranged from carving out exemptions for mass transit workers to negotiating supplemental agreements to having the state Attorney General’s office provide assurance that the changes would not affect the ability of transit workers to collectively bargain.

In processing grants for certification, the Department has studied carefully the impact of PEPRA on the existing bargaining rights of union-represented transit employees who work for LACMTA, as well as in other jurisdictions. We are concerned that PEPRA diminishes both the substantive rights of transit employees under current collective bargaining agreements and narrows the future scope of collective bargaining over pensions. We base these concerns on a variety of considerations, including analyses of PEPRA prepared by the State, input from LACTMA and the unions, pension calculations verified by the parties, and legal principles that have historically governed the Department’s 13(c) determinations.

Attachment B

As you know, we have been working with your staff to help California resolve the Section 13(c) issues that result from PEPRA. In November 2012, when we received objections from the affected unions to certification of the LACMTA grants, we gave the parties 30 days to come up with a negotiated solution, as provided under our guidelines, and extended that period upon request. When that yielded no results we asked them for a detailed briefing so that we could pinpoint the areas of conflict between PEPRA and Section 13(c). In June, we brought the LACMTA parties together to see if they could find a negotiated solution, but they adjourned without resolution.

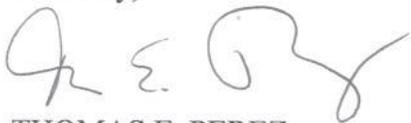
Anticipating that PEPRA's substantial changes to public pensions would implicate Section 13(c) in many transit districts, we have engaged directly with your office to seek a comprehensive solution. As we have discussed, a bill pending in the California Legislature, AB 160, would exempt mass transit workers from PEPRA. Such an exemption has historically provided a solution in situations such as this one.

I write to urge California to act immediately to develop a solution on this issue. As you know, PEPRA impacts 83 of California's 95 FTA grantees. These transit agencies are eligible for more than \$1.6 billion in funding for FY 2013. This includes over \$530 million in FTA grants awaiting certification as of the end of June, and an additional \$1.1 billion for 99 grants still under development.

There are significant negative consequences that a lack of resolution on this issue will have for service providers, employees, and transit users who depend on mass transit in California. Indeed, some grantees have informed the FTA that without federal funding they will face both service cuts and layoffs this year.

With these consequences in mind, we will refrain from issuing a determination for LACMTA until August 16. We hope that this additional time will provide an opportunity for your state to work out a possible resolution, as other states have done. In the meantime, the Department stands ready to assist you and your staff in any way possible to find an acceptable solution.

Sincerely,



THOMAS E. PEREZ

MOODY'S INVESTORS SERVICE

Rating Action: Moody's places 15 California transit agencies under review for downgrade due to possible loss of federal grants

Global Credit Research - 14 Aug 2013

\$6.5 billion in rated debt affected

New York, August 14, 2013 -- Moody's Investors Service has placed under review for downgrade the ratings of 15 California transit agencies. The rating action is prompted by the possibility that the agencies will lose federal grants that on average comprise about 13% of their operating revenue and 40% of their capital funding.

Section 13c of the Federal Transit Act mandates that the US Department of Labor (DoL) must certify that certain transit employee protections, including the right to collective bargaining, are in place before the Federal Transit Administration can issue a grant. In California, transit unions have asserted that the California Public Employees' Pension Reform Act of 2013 (PEPRA) infringes on their right to collective bargaining. As a result, the DoL has not certified various grants to seven rated California transit agencies, threatening over \$3 billion of federal aid and challenging their finances. The grants of the remaining California agencies are at risk of similar delay or decertification.

The debt of the 15 affected agencies includes pledges of net operating revenues, gross pledges of dedicated sales taxes, and one general obligation unlimited tax pledge. The delay or decertification of federal grants creates operating risks that can potentially affect credit quality. Loss of federal operating grants could create significant financial strain for transit agencies and force them to cut service which would reduce fare revenues that in some cases are pledged to bondholders. Loss of federal capital grants may lead some transit agencies to increase leverage of dedicated sales taxes or of general obligation bonds, reducing debt service coverage and resulting in less residual tax revenue available to support operations.

We plan to conclude our review within 90 days. Amid the substantial uncertainty surrounding the grant objections and the process of decertification, during the review period we will identify which California transit agency credits are most at risk from grant decertification.

List of affected issuers (all on review for possible downgrade):

- Alameda-Contra Costa Transit District, Certificates of Participation, rated A1, \$40 million outstanding
- Culver City Transit Enterprise, Certificates of Participation, rated Aa3, \$4 million outstanding
- Los Angeles County Metropolitan Transportation Authority, Proposition A First Tier Senior Sales Tax Revenue Bonds, rated Aa2, \$1.4 billion outstanding
- Los Angeles County Metropolitan Transportation Authority, Grand Central Square Qualified Redevelopment Bonds, rated Aa3, \$21 million outstanding
- Los Angeles County Metropolitan Transportation Authority, Proposition C Sales Tax Bonds, rated Aa3, \$1.1 billion outstanding
- Los Angeles County Metropolitan Transportation Authority, Measure R Sales Tax Revenue Bonds, rated Aa2, \$717 million outstanding
- Los Angeles County Metropolitan Transportation Authority, General Revenue Bonds, rated A1, \$150 million outstanding
- Los Angeles County Metropolitan Transportation Authority, Proposition A Commercial Paper [BANK BONDS], rated Aa3, \$127 million outstanding
- Los Angeles County Metropolitan Transportation Authority, Proposition C Commercial Paper [BANK BONDS], rated A1, \$23 million outstanding

Attachment C

- North County Transit District, Certificates of Participation, rated A1, \$34 million outstanding
- Peninsula Corridor Joint Powers Board, Farebox Revenue Bonds, rated A1, \$23 million outstanding
- Riverside Transit Agency, Certificates of Participation, rated Aa3, \$7 million outstanding
- Sacramento Regional Transit District, Farebox Revenue Bonds, rated A2, \$85 million
- Santa Clara Valley Transportation Authority, Sales Tax Revenue Bonds, rated Aa2, \$1.2 billion outstanding
- San Diego Metropolitan Transit System, Pension Obligation Bonds, rated Aa3, \$41 million outstanding
- San Francisco Bay Area Rapid Transit District, Sales Tax Revenue Bonds, rated Aa3, \$626 million outstanding
- San Francisco Bay Area Rapid Transit District, General Obligation Bonds, rated Aaa, \$413 million outstanding
- San Francisco Municipal Transportation Agency, Revenue Bonds, rated Aa3, \$68 million outstanding
- San Mateo County Transit District, Limited Tax Bonds, rated Aa2, \$315 million outstanding
- San Joaquin Regional Rail Commission, Certificates of Participation, rated A2, \$35 million outstanding
- Victor Valley Transit Authority, Certificates of Participation, rated A2, \$31 million outstanding
- Western Contra Costa Transportation Authority, Certificates of Participation, rated Aa3, \$1 million outstanding

RATING METHODOLOGIES

The principal methodology used in rating the general obligation debt was General Obligation Bonds Issued by US Local Governments published in April 2013. The principal methodology used in rating the enterprise revenue bonds was Mass Transit published in June 2000. The principal methodology used in rating the special tax bonds was US Public Finance Special Tax Methodology published in March 2012. Please see the Credit Policy page on www.moodys.com for a copy of these methodologies.

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Julius Mavro Vizner
Asst Vice President - Analyst
Public Finance Group
Moody's Investors Service, Inc.
250 Greenwich Street
New York, NY 10007
U.S.A.

JOURNALISTS: 212-553-0376
SUBSCRIBERS: 212-553-1653

Emily Raimes
VP - Senior Credit Officer
Public Finance Group
JOURNALISTS: 212-553-0376
SUBSCRIBERS: 212-553-1653

Releasing Office:
Moody's Investors Service, Inc.
250 Greenwich Street
New York, NY 10007
U.S.A.
JOURNALISTS: 212-553-0376
SUBSCRIBERS: 212-553-1653



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Attachment C

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