



## MEETING MINUTES

### Executive Committee

**Thursday, February 18, 2010**

**11:00 a.m. – 1:00 p.m.**

#### Agenda Items

#### Recommended Action

##### *General Business*

Executive Committee Chair Doran Barnes called the meeting to order at approximately 11:03am.

##### 1. **Chair's Report**

Discussion Summary: Chair Barnes welcomed the members. He noted that this emergency meeting had been called to address developments in the State Budget process regarding transit funding, and their relationship to the Association's Litigation and initiative efforts. He also praised the "heroic effort" on the part of Association staff in shaping the agenda regarding budget discussions.

##### 2. **Executive Director's Report**

Discussion Summary: Executive Director Joshua Shaw reported that he had met with Senate President Pro Tem Darrell Steinberg and Senate Transportation Committee Chair Alan Lowenthal and representatives from a variety of interest groups. At this meeting, the Senators were intent on enlisting the Association's support of the Legislature's proposal regarding transportation funding. Shaw went on to review the details of the Senate proposal and how it differed from the Governor's proposal, chiefly that it maintains the sales tax on diesel fuel for funding transit programs, includes a one-time \$400 million appropriation from the Public Transportation Account, and seeks to provide local government entities with the authority to enact local transit funding measures. Shaw reported that he conveyed to the Senators that the Association is still strongly opposed to plans for elimination of the sales tax on gasoline, that the Association's "ultimate bottom line" is \$350 million per year in the State Transit Assistance program, and the suggestion that non-Article XIX funds be freed up for transit operations funding.

Shaw further reported that he advanced two ideas with the Senators: 1) a TDA-like mechanism involving ALL sales taxes, of which a portion could be allotted to transit, and 2) an increase in the sales tax rate on diesel fuel, to be offset by a smaller increase in the excise tax than is currently proposed. He also expressed concerns to the Senators about protections for the local fee authority component.

Shaw reported that a heavy lobbying effort by Association staff, members of the Transit Funding Coalition and labor representatives was undertaken, with an

emphasis on Assemblymembers, given how far the Legislative proposal has advanced in the Senate. Key Senators were also targeted in this effort, which also included a meeting with the Director of the Department of Finance, and subsequent followup meetings with Steinberg and Lowenthal.

According to Shaw, the Association suggestions “got a lot of traction” in the Assembly. He noted that Assembly members Mike Eng, Mike Feuer and Jerry Hill have been consulting with the Association on ways to perfect the Legislature’s proposal. He reported a meeting among himself, Barry Broad of the Amalgamated Transit Union and Assembly Speaker-Elect John Perez yielded little hope for the Assembly opposing the elimination of the sales tax on gasoline.

Shaw then stated that on Feb. 17, the Speaker’s budget staff and Assembly Budget Committee staff briefed the Assembly Democratic Caucus on a new plan that includes the suggestion of an increase in the sales tax on diesel with an accompanying reduction in the proposed excise tax increase to retain revenue neutrality. He reported that Assembly staff then briefed Senate staff on this revised proposal, and that there was some tension with regard to how such a proposal would be received by other stakeholders (streets and highways, construction interests and such) who would receive less funding under the new proposal as a result of the lower excise tax, but still more than they have been receiving under the provisions of Proposition 42 (which would be eliminated under all proposals being considered). He reported that legislative staff consulted on the proposal with James Earp of the California Alliance for Jobs, which represents many of these other transportation stakeholders. Shaw said that Earp “was essentially handed the opportunity to blow up the deal,” but that Earp’s reaction was instead to ask Shaw “how he can help make this happen.”

Shaw noted that representatives of the oil industry and taxpayer advocacy groups are gearing up to fight the local fee authority component, and that it may end up being sacrificed in order to achieve a deal. He relayed that input from Association members suggests that none are thrilled with the provision, but that many still view it as a potential useful tool.

Shaw concluded that Senate staff has been directed to “work like dogs” to incorporate the Assembly proposal.

Shaw shared numerous observations, both pro and con, with regard to the Assembly proposal. On the plus side, the plan is much better for transit than the Governor’s proposal, streets and roads interests would be better off, the General Fund relief provided would not put ongoing pressure on transit funding, such pressure would be further relieved by the use of excise tax revenue to pay off bond debt, and the plan meets the minimum requests of the Executive Committee. On the negative side, the plan is still vulnerable to line-item veto action by the Governor, that – even if adopted under the current special session – the plan could be vulnerable to subsequent regular session actions on the budget, that the plan offers no ironclad guarantees that the diesel tax revenue would not be raided in future years, that the local fee authority component could eventually be eliminated, and that the Governor could hold the measure hostage pending the Association’s agreement to drop the issue of repayment of past funds diverted (per court rulings on *Shaw v. Chiang*) and/or withdraw from participation in the statewide ballot initiative effort.

***Strategic Goal 1 - Advocacy: Influence decision makers to enact policies and supply funds supporting and advancing public transit.***

**3. Transit Revenue Protection & Enhancement**

a. Transit Funding: Budget, Litigation & Initiative

Discussion Summary: Followup discussion included the following Q&A exchanges:

Carl Sedoryk (Monterey Salinas Transit) asked “Why throw out a good program (i.e., the law as it is currently in effect) for what could be a temporary fix? Shaw responded that the view of the Legislature is that there is no reason to implement

the plan on a temporary basis, stressing that “this is also where the heavy construction industry wants to go.”

Mike Wiley (Sacramento Regional Transit District) asked about Earp’s impression of the initiative effort should the Legislature’s plan be adopted. Shaw responded that Earp maintains support for the initiative (Earp, Shaw and Chris McKenzie of the League of California Cities comprise the committee behind the initiative effort), but that Earp’s commitment is currently limited to the signature-gathering effort to qualify the measure. Shaw noted that Earp feels the initiative is still a better deal for the interests he represents.

Rebecca Long (Metropolitan Transportation Commission) asked whether the initiative would provide further protections for the STA program. Shaw replied that the initiative would make it much tougher to undo STA funding.

Les White (Santa Cruz Metropolitan Transit District) asked if it was possible to include provisions in the proposal granting the local fee authority to Regional Transportation Planning Agencies (RTPAs), rather than Metropolitan Planning Organizations (MPOs). Shaw replied that, if the Executive Committee so desires, he could advance that request, but that he was “not hopeful.”

White also expressed the desire of local authorities for assurance that the elimination of sales taxes on gasoline would not affect locally-implemented gas taxes. Shaw replied that such an exemption is included in the Governor’s proposal. It is not yet clear if the Legislature’s plan would also include that exemption, but Shaw assured he would advocate for it to be included.

Will Kempton (Orange County Transportation Authority) asked if the local fee authority component would include requirements for a public vote. Shaw said that it would under the newest proposal.

Kempton also asked about the position of the trucking industry on the newest plan. Shaw said he was unaware of the industry’s position, but noted that their excise tax obligations would be reduced under the plan.

Kempton asked about the prospects for enlisting any Republican support for the plan. Shaw replied that all Republicans are mad about the gas tax swap being advanced as a majority-vote measure (rather than requiring two-thirds approval), but that construction interests could bring them in line.

Paul Fadelli (San Francisco Bay Area Rapid Transit District) asked about friction between the Senate and Assembly over the new proposal. Shaw responded that he sensed “it’s not a deal-breaker.” He noted that the Senate feels it is doing transit a favor by proposing any transit funding at all, and that some in the legislature are portraying transit interests as “greedy” for seeking further funding. He stressed, however, that he does not “foresee a huge backlash” as a result of the Assembly’s proposal to improve upon the original Senate plan.

Ensuing discussion focused on finalizing a formal position with regard to the latest proposals. An initial motion by Long suggested that the Association take a position of opposition to the gas tax swap at the core of all the proposals, but support for any alternative, provided the following conditions are met:

1. An increase in the sales tax rate on diesel, with the resulting revenues to be split 75-25 between local transit agencies and other state transit obligations (such as intercity rail, Caltrans and California Transportation Commission transit-focused programs, etc.)
2. Inclusion of the local fee authority component
3. Retention of the Senate proposal for a one-time allocation of \$400 million to transit agencies from existing PTA funds
4. The transfer of some non-Article XIX funds to the PTA

The motion was seconded by Jennifer Barton (San Francisco Bay Area Rapid Transit District). However, subsequent discussion raised concerns on the part of many members regarding the local fee authority component, based primarily on having little desire to return to voters with proposals for transit-funding fees or taxes so soon after similar measures have been on the ballot (and approved) in their own regions. This discussion resulted in an amendment of the original motion to adopt a position of neutrality on the local fee authority component.

**Motion, second and carried:**

**That the California Transit Association remain opposed to the concept of eliminating the state sales tax on gasoline, which would destroy 40 years of public policy support for a robust state funding contribution to local public transit systems. Furthermore, in the event that the elimination of the sales tax on gasoline is a component of any plan advanced by the Legislature, the Association will only support a package that includes:**

- 1. A boost in the rate of sales tax on diesel fuel to the Assembly's proposed 7.5 percent, with dedication of that sales tax on diesel fuel revenue stream to the Public Transportation Account, for expenditure on a 75% / 25% basis over the long-term on, respectively, the State Transit Assistance program and the remaining historic obligations of the PTA, including the Intercity Passenger Rail program and other state transit expenses**
- 2. An immediate \$400 million appropriation from the balance in the Public Transportation Account to the State Transit Assistance program, and**
- 3. Dedication of non-Article XIX revenues to the PTA.**

Subsequent discussion focused on how any eventual plan adopted by the Legislature would affect the Association's participation in the effort to qualify and pass the Local Taxpayer, Public Safety and Transportation Protection Act of 2010. The discussion addressed the procurement of a legal analysis of how such actions by the Legislature would impact the transit funding protection provisions of the initiative. It was suggested that perhaps the League of California Cities, which has already had such an analysis prepared by its legal representatives, would be willing to share the findings of that analysis. However, it was suggested that issues with regard to attorney/client privilege would preclude sharing of this information. It was noted that legal counsel working on behalf of the Association had offered to complete such an analysis, but the fee of \$30,000-\$40,000 was prohibitive. Shaw suggested he could approach other partners in the initiative effort about contributing some of the cost for such an analysis.

The issue of the Legislature's position on the Association's involvement in the initiative effort was raised. Shaw reported that members of the legislature and their staff have implied that they would prefer the Association withdraw from the initiative effort. However, as Shaw noted, there are no proposals currently under consideration in the Legislature that would entice the League of California Cities to drop the effort. Since it is thus likely that the initiative effort would continue with or without the support of the Association, Shaw posited that "there's no difference for us with the Legislative package whether we're in or not."

***Other Business***

- 4. Other Business**
  - a. Items Otherwise Not on the Agenda  
None
- 5. Adjournment**

**Meeting adjourned approximately at 12:59pm.**

Executive Committee (2009-2011)  
California Transit Association  
Thursday, February 18<sup>th</sup>, 2010

Members Present

X	Charlie Anderson	Western Contra Costa Transit Authority
X	Mona Babauta	Santa Rosa CityBus
X	Doran Barnes	Foothill Transit
X	Jennifer Barton	San Francisco Bay Area Rapid Transit District
A	Michael T. Burns	Santa Clara Valley Transportation Authority
X	Donna DeMartino	San Joaquin Regional Transit District
X	Jim Gleich	AC Transit
A	Paul Jablonski	San Diego Metropolitan Transit System
A	Debra Johnson	San Francisco Municipal Transportation Agency
X	Kevin Kane	Victor Valley Transit Authority
X	Will Kempton	Orange County Transportation Authority
X	Brynn Kernaghan	Long Beach Transit
A	Karen King	Golden Empire Transit District
A	Jeanne Krieg	Eastern Contra Costa Transit Authority
X	David B. Kutrosky	Capitol Corridor Joint Powers Authority
A	Arthur Leahy	LA County Metropolitan Transportation Authority
X	Rebecca Long	Metropolitan Transportation Commission
X	Brian MacLeod	Gillig Corporation
X	Teri Mantony	Golden Gate Bridge, Highway & Transportation District
A	Jim Mastin	Mendocino Transit Authority
X	Seamus Murphy	San Mateo County Transit District
X	Pam O'Connor	Santa Monica's Big Blue Bus
X	Carl Sedoryk	Monterey-Salinas Transit
A	Kam Shadan	Gannett Fleming, Inc.
X	Michael Wiley	Sacramento Regional Transit District

Substitutes Present

X	Kate Breen	San Francisco Municipal Transportation Agency
X	Patricia Bruno	LA County Metropolitan Transportation Authority

Staff Present

X	Joshua Shaw	California Transit Association
X	Sabrina Means	California Transit Association
X	Jeff Wagner	California Transit Association
X	Gus Khouri	California Transit Association
X	Amy Lai	California Transit Association
X	Tuyen Truong	California Transit Association
	Andrew Antwih	Shaw/Yoder/Antwih, inc. – California Transit Association

Others Present

X	Alane Masui	Sacramento Regional Transit District
X	Dana Lee	Long Beach Transit
X	David Feinberg	Santa Monica Big Blue Bus
X	Kurt Evans	Santa Clara Valley Transportation Authority
X	Leslie White	Santa Cruz Metro
X	Paul Fadelli	San Francisco Bay Area Rapid Transit District
X	Richard Bacigalupo	Orange County Transportation Authority

X – Present  
XT – Present by Telephone  
A – Absent