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TO: BOARD OF DIRECTORS

THRU: PHILLIP A. WASHINGTON PAW
CHIEF EXECUTIVE OFFICER

FROM: PAULETTA TONILAS
CHIEF COMMUNICATIONS OFFICER

SUBJECT: DRIVE ACT (H.R.22) – FEDERAL SURFACE TRANSPORTATION AUTHORIZATION BILL ADOPTED BY THE U.S. SENATE

ISSUE

The U.S. Senate recently passed a six-year surface transportation authorization bill called the Developing a Reliable and Innovative Vision for the Economy Act (DRIVE Act – H.R. 22). The bill authorizes $361 billion over six-years for federal transportation programs. However, the legislation as passed by the U.S. Senate only included funding for three of the six years authorized under the legislation. Overall, the bill provides 11.4% growth for highway programs and 15.4% growth for transit programs. The DRIVE Act provides a marker for the U.S. House of Representatives, which is expected to mark-up their own surface transportation authorization bill next month that can then be conferenced with the Senate's version. The DRIVE Act represents the most substantial federal policy proposal to pass either branch of Congress since the adoption of MAP-21 on June 29, 2012. Please find here a summary of some of the major programs and policies embedded in The DRIVE Act.

DISCUSSION

TIFIA Program

- The DRIVE Act would reduce budget authority for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from $1 billion to $300 million per year. At this level of funding, the U.S. Department of Transportation (USDOT) could provide over $3 billion annually in TIFIA loans for transportation projects across the nation. Notably, the legislation reforms the TIFIA program by making transit-oriented development (TOD) an eligible expenditure, which is a reform that is strongly backed by our Board of Directors.

- Language is also included that will disallow unused TIFIA funds from being redistributed. There is currently estimated to be $500 million in unused funds that could be used to bolster the accounts lending ability above the bill's authorized annual appropriation of $300 million.

- The bill includes language to facilitate TIFIA Master Credit Agreements that could be useful for our agency. Master Credit Agreements would permit our agency to bundle multiple TIFIA loan requests and present them as a one application to USDOT.

Capital Investment Grants (New Starts)

- The DRIVE Act increases funding for Capital Investment Grants (CIG) from $2.3 billion in Fiscal Year 2016 to $2.6 billion in Fiscal Year 2021.

- The legislation increases the maximum federal assistance for a Small Starts project to no more than $100 million from the current cap of $75 million. The bill also increases the total estimated net capital cost of a Small Starts project to $300 million from an amount not to exceed $250 million as set in MAP-21.

- The DRIVE Act includes language establishing a pilot program for expediting delivery of projects seeking a federal participation equivalent to a maximum of 25% of the total project cost.

CMAQ Program

- California could receive over $1.1 billion more through the term of the DRIVE Act, if CMAQ funds are apportioned using the formula that was used in SAFETEA-LU. Los Angeles County's share would increase by about $350 million.

- Flexibility to use CMAQ funds for operating expenses is maintained for the first five years of a new transit line's operation.

Surface Transportation Program

The legislation makes three notable changes to the Surface Transportation Program (STP). First, it increases from 50 to 55 percent the share of STP funds that states must allocate by formula, including to large urbanized areas such as those included in Los Angeles County. Second, the DRIVE act stipulates that all states must obligate at least 50 percent of their off-National Highway System bridge set-aside for bridges on roads that are not Federal-aid highways. Lastly, the legislation permits the State of California and other border states, to set aside no more than 5 percent of their STP funding for border infrastructure projects.

National Freight Program

- The DRIVE Act creates a new National Multimodal Freight Policy and National Multimodal Freight Network. It also mandates the development of a National Freight Strategic Plan, as well as State Freight Plans and State Freight Advisory Committees. The program is authorized at $11.65 billion over 6 years from the Highway Trust Fund.

- The apportionment formula is not needs-based. What a state is apportioned is a percentage that is equal to the amount apportioned (for core highway program) to the state in 2014 relative to the total amount apportioned to all states in 2014 (about 9.4% for California).

- States must use the funds to improve the movement of freight on the National Highway Freight Network.

- Because California's current share (about 10.3%) of the country's total centerline mileage of the Primary Highway Freight System (about 27,000 miles) is larger than the 3% specified in the proposed legislation, in addition to using the funds on this type of freight corridors, the state can also use the funds on Critical Rural Freight Corridors and Critical Urban Freight Corridors.

Other Freight Programs

- The bill includes Assistance to Major Projects Program that provides $2.1 billion over 6 years from the Highway Trust Fund distributed through a competitive process to eligible capital surface transportation projects, including freight and transit projects. As applicable to urban areas in California, eligible projects must have a minimum total cost $350 million and the minimum grant award is $50 million.

Section 5340 High Density States Program

- The apportionment formula for the High Density States Program in The DRIVE Act limits the eligibility to states with a population density in excess of 370 persons per square mile. Only the following seven northeastern states, and Washington, D.C., have benefited from this program since it was authorized by SAFETEA-LU: Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Rhode Island. These states and Washington, D.C., would receive the $1.72 billion included in the DRIVE Act.

- The State of California, with a population of density of 239 persons per square mile (2010 US Census) is not eligible to receive funding through this program.

Positive Train Control

- The legislation provides $199 million for the installation of Positive Train Control. The grant funds can also be used for credit-risk premiums on a Railroad Rehabilitation and Improvement Financing (RRIF) loan.

- Also included in the legislation is a change in the deadline for railroads to implement Positive Train Control systems. The policy change requires railroads to submit a plan that will then be approved by the Secretary of Transportation. The Secretary will review each plan to enforce implementation no later than December 31, 2018.

Innovative Procurement

- The DRIVE Act creates a new Innovative procurement program for contracts under which vendors provide an option to purchase rolling stock and related equipment to multiple participants. This pilot program creates a method for small and medium sized transit agencies to purchase or lease rolling stock vehicles, presumably buses, in a manner that is similar to the State of California Multiple Award Schedules (CMAS). The pilot program has the added feature of allowing transit agencies to make interstate purchases from participating states throughout the country.

Buy America

- The DRIVE Act increases the Buy America requirement on rolling stock from 60% to 70% (incrementally) by 2020. Metro's 900 Bus Buy Contract, recently underwent a Post-Award Buy America audit on 350 Option Buses manufactured by New Flyer America and it was confirmed the manufacturer achieved over 75% U.S. content. These buses are fully assembled in the U.S. (St. Cloud MN and Ontario CA). However, this high content was only achieved because Metro included a scoring incentive in its Best Value solicitation for enhanced U.S. Content. This enhanced U.S. content program is a result of CA Assembly Bill AB1097, enacted October 2011, which provides state or local agency's with the ability to provide a scoring preference for proposers who exceed the 60% minimum. The proposed new U.S. law would create the same obligation from all TVMs across the United States.

Park and Ride Lots - Relinquishment

- The DRIVE Act includes language, consistent with a previously adopted Board legislative priority, which would permit State transportation agencies, like Caltrans, to relinquish park-and-ride lot facilities or portions of park-and-ride lot facilities to a local government agency for highway purposes if authorized to do so under State law.

NEXT STEPS

The U.S. House of Representatives, through the House Committee on Transportation and Infrastructure, Chaired by Congressman Bill Shuster (R-PA), will likely try to mark-up their own surface transportation authorization bill next month. Provided that legislation is adopted by the committee and then passed by the full House, both the DRIVE Act and the House passed bill would then be deliberated in a conference – which may result in a conference report – that would face an up or down vote (no amendments) in both the House and Senate. Metro's Government Relations Department will continue to closely track the surface transportation authorization bills in both the House and Senate and will also continue to engage with federal legislators and their senior aides to ensure that the final surface transportation authorization bill presented to President Obama reflects the priorities of our Board-approved 2015 Federal Legislative Program.