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TO: BOARD OF DIRECTORS

THRU: PHILLIP A. WASHINGTON
CHIEF EXECUTIVE OFFICER

FROM: PAULETTA TONILAS
CHIEF COMMUNICATIONS OFFICER

SUBJECT: IMPACT OF FEDERAL AVIATION ADMINISTRATION
RULEMAKING ON AVIATION FUEL TAXES

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ISSUE

In 1987 Congress passed a Federal Aviation Administration (FAA) authorization amendment that required airports to spend aviation fuel excise tax revenue on airport uses. The conference report for the 1987 amendments to the FAA statute (H.R. Conf. Rept. No. 484, 100th Cong., 1st Sess. 1987 accompanying P.L. 100-223) clearly stated that the requirement that local taxes on aviation fuel must be spent on airports “is intended to apply to local fuel taxes only, and not to other taxes imposed by local governments, or to state taxes”. On December 8, 2014 (79 FR 66282), FAA made a final rulemaking that contradicts the Congressional intent and 29 years of practice by saying that *“the agency interpreted the provisions of Sections 47107(b) and 47133 to apply to any state or local tax on aviation fuel, whether the tax was specifically targeted at aviation fuel or was a general sales tax on products that included aviation fuel without exemption.”*

DISCUSSION

The FAA’s rulemaking will result in sales tax revenues generated under Los Angeles County’s Proposition C and Measure R (Proposition A is exempt from the rule as it excludes taxes in effect on December 30, 1987) to be diverted from the voter-approved intent. The impact of the FAA’s rulemaking raises many concerns and legal questions, but at the root of the problem, Metro has been advised that the estimated financial impact could amount to a loss of approximately \$18 million annually. Additionally, the result of FAA’s rulemaking could raise problems for potential future sales tax measures in Los Angeles County and throughout the State of California. Lastly, due to the fact that sales taxes on aviation fuel are not segregated from other taxable sources, the burden placed on states and local governments to implement the tracking system necessary is extensive and represents an unfunded mandate.

NEXT STEPS

Yesterday, the House Committee on Transportation and Infrastructure adopted a six-year, \$69 billion aviation reauthorization bill. Consistent with our agency's position, Congresswoman Grace Napolitano (D-CA) raised a concern about the FAA's rulemaking on aviation fuel and will be working with Chairman Shuster and other members of the committee to appropriately address this matter when the aviation reauthorization bill is considered on the House floor. Metro staff believes that it would be an appropriate action to seek a legislative fix to the pending aviation reauthorization bill to ensure that the original Congressional intent of the FAA statute remains intact. Metro's Government Relations Department, in coordination with and input from Metro's Countywide Planning and Development Department and Treasury Department, will engage with federal legislators and their senior aides to support a legislative remedy to favorably resolve this matter when the aviation reauthorization bill is considered on the House floor.