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METRO

EXECUTIVE MANAGEMENT COMMITTEE
As Amended
APRIL 19, 2001

Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
90012-2952

SUBJECT: STATE LEGISLATION

ACTION: APPROVE STAFF RECOMMENDATION ON STATE LEGISLATION

RECOMMENDATION

Staff recommends that the MTA Board of Directors consider the following positions:

A. SB 829 (Karnette) – SB 829 would permanently dedicate the sales tax on gasoline for transportation purposes. ~~and split the revenue equally between STIP, local streets and roads, and the Public Transportation Account.~~ **SUPPORT ~~WITH AMENDMENTS~~**

B. AB 227 (Longville) – AB 227 would sunset the Governor's Transportation Congestion Relief Plan after six years and permanently allocate the sales tax to the Transportation Investment Fund. **SUPPORT ~~IF AMENDED~~**

C. ACA 9 (Dutra) – ACA 9 is a constitutional amendment that would dedicate the sales tax on gasoline beyond 2006. **SUPPORT**

D. SCA 3 (Karnette) – SCA 3 is a constitutional amendment which would relax the limitations of Article XIX of the Constitution and allow gas tax revenues to be used for additional mass transportation purposes. **SUPPORT**

E. AB 1396 (Longville) – AB 1396 would create an annual $100 million Passenger Rail Improvement, Safety and Modernization Program. **SUPPORT**

F. SB 547 (Figueroa) – SB 547 would provide a tax credit to employers that provide subsidized transit passes to their employees. **SUPPORT**

G. AB 984 (Papan)– AB 984 This bill would allow transit agencies to enter into lease-leaseback arrangements with private companies. Allowing transit agencies to gain additional revenue at no cost to the state. **SUPPORT**

H. AB 1079 (Oropeza) – AB 1079 requires every bus operated by a public agency to be equipped with a 2-way communication device for emergency purposes. **SUPPORT**

ISSUE

Staff reviews numerous transportation-related bills throughout the legislative session. The attached analyses identify eight significant on bills which staff believes the MTA Board of Directors should take positions.

ATTACHMENTS

Attachments A-H:	Legislative Analyses
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BILL: **SB 829**

AUTHOR: **SENATOR BETTY KARNETTE (D-LONG BEACH)**

SUBJECT **ALLOCATION OF THE STATE SALES TAX APPLIED TO GASOLINE SALES**

STATUS: **SENATE TRANSPORTATION COMMITTEE APRIL 17, 2001**

ACTION: **SUPPORT WITH AMENDMENTS**

RECOMMENDATION

Staff recommends that the MTA Board of Directors take a support with amendments position on SB 829.

PROVISIONS

Current law allocates the sales tax generated from gasoline sales to the Transportation Investment Fund (TIF) as a part of the Governor's Transportation Congestion Relief Plan (TCRP). This allocation is made for a period of six years. Current law also specifies an allocation formula for those funds. Under that law a set amount is to be allocated to the projects in the plan. The remaining funds are to be split in the following manner: 40% to the State Transportation Improvement Program (STIP), 40% to cities and counties for street and road repair, and, 20% to the Public Transportation Account (PTA).

SB 829 would:

- Permanently allocate the sales tax to the TIF.
- Allow the allocations to the TCRP projects to sunset after six years.
- Provide that after Fiscal Year 2006 the allocation formula is modified to allocate 1/3 of the funds to each recipient: the STIP, cities and counties and the PTA.

SB 829 is being presented to the MTA Board of Directors concurrently with AB 227 (Longville) which also proposes to make permanent the transfer of the sales tax, however AB 227 maintains the existing 40/40/20 split.

IMPACT ANALYSIS

The passage of the TCRP created a substantial increase in transportation funding in the State of California and addressed a comprehensive set of transportation funding needs. The plan is funded first by General Fund allocations that were required in Fiscal Year 2001. Over the life of the plan the other major funding source is the transfer of the state sales tax that is applied to gasoline sales.

The TCRP requires that the sales tax from gasoline sales be deposited in the Transportation Investment Fund. These transfers are required through FY 2006 and after FY 2006 these funds would revert back to the General Fund. The State Controller is required to allocate $169 million each quarter ($676 million annually) from the TIF to the projects in the TCRP. The remaining funds are to be allocated 40% to the STIP, 40% to cities and counties for street and road repair, and 20% to the PTA (the 40/40/20 split).

SB 829, as proposed by Senator Karnette, would make the transfer of the sales tax permanent and would also allow the allocations to the TCRP projects to expire. SB 829, however, proposes to modify the allocation formulas to provide 1/3 of the funds to each of the recipient uses: the STIP, cities and counties and the PTA. The effect of this measure would be to reduce the amount of funds ultimately allocated to the STIP and to cities and counties while increasing the amount of funds allocated to public transit.

Without any legislative action the allocation of the sales tax on gas to transportation purposes will expire after FY 2006. The question before the State Legislature now is two-fold: First, is whether or not to extend the transfer permanently and its resultant long-term impacts to the General Fund; the second question then relates to the need to modify the allocation formula after FY 2006.

Staff suggests that extending the sales tax with the current allocation formula will perpetuate an already inherent inequity in the PTA in that the first 50% of the funds do not directly flow to transit providers for transit operations. Under the existing structure of the PTA, the first 50% of the funds revert back to Caltrans and the CTC for discretionary allocations to intercity rail projects, essentially STIP type projects. The remaining 50% is allocated through the State Transit Assistance (STA) program. It is the allocations to the STA that actually provide funding for public transit uses. The effect of the 40/40/20 split is that public transit only receives 10% while the STIP receives 50%.

Allocations under the current TCRP formula are designed to assist in the capital development of the projects. The TCRP placed a strong emphasis on transit projects also increasing the need for funds to operate these projects. The 20% of the funds allocated through the PTA begin to address this need. However, the structure of the PTA will not allow all of those funds to flow to the operation of the transit projects. Staff, therefore, suggests that modifications to the allocation formula are warranted and the type of allocation structure proposed by SB 829 is one such alternative.

The California Transit Association is the sponsor of SB 829. SB 829 represents an opportunity to provide long-term stability to a vital source of public transit funding, and provides an opportunity to balance the needs of transportation agencies after the TCRP projects are completed. While the provisions of SB 829 will be of concern to cities and counties, in that their ultimate allocation would be reduced after FY 2006, it should be noted that between now and FY 2006 these entities would enjoy a large influx of funds for street and road repair. It should also be noted that these funds are currently <u>NOT</u> allocated after FY 2006, so under current statute, no entity receives any of these funds after FY 2006.

Staff recommends the MTA Board of Directors take a support position of SB 829 and pursue an allocation formula that more equally allocates funds to public transit. In its current form, SB 829 is expected to be opposed by cities and counties. However, SB 829 addresses the need to modify the current allocation formula to equalize the funding across categories. Staff further suggests that alternative allocation scenarios are possible, which would not impact the funds flowing to cities and counties. For example, if the allocation of the 20% were made directly into the STA account, these funds would then not be subject to discretionary allocation by Caltrans and would then flow, by formula, to transit providers. This restructuring of the formula would not require the reallocation of funds away from cities and counties and would more directly fund transit operations.

ATTACHMENT B

BILL: AB 227

AUTHOR: ASSEMBLYMAN JOHN LONGVILLE (D-RIALTO)

SUBJECT: ALLOCATION OF THE STATE SALES TAX APPLIED TO GASOLINE SALES

STATUS: SCHEDULED FOR HEARING IN THE ASSEMBLY APPROPRIATIONS COMMITTEE ON APRIL 18, 2001

ACTION: SUPPORT IF AMENDED

RECOMMENDATION

Staff recommends that the MTA Board of Directors adopt a support if amended position on AB 227.

PROVISIONS

Current law allocates the sales tax generated from gasoline sales to the Transportation Investment Fund (TIF) as a part of the Governor's Transportation Congestion Relief Plan (TCRP). This allocation is made for a period of six years. Current law also specifies an allocation formula for those funds. Under that law a set amount is to be allocated to the projects in the plan. The remaining funds are to be split in the following manner; 40% to the State Transportation Improvement Program (STIP), 40% to cities and counties for street and road repair, and 20% to the Public Transportation Account (PTA).

AB 227 would:

- Permanently allocate the sales tax to the TIF.
- Allow the allocations to the TCRP projects to sunset after six year and then apply the 40/40/20 split to all proceeds in the TIF.

AB 227 is being presented to the MTA Board of Directors with SB 829 (Karnette) which also proposes to make permanent the transfer of the sales tax. However, SB 829 proposes a modification of the allocation formula that would more equally benefit public transit.

IMPACT ANALYSIS

The passage of the TCRP created a substantial increase in transportation funding in the State of California and addressed a comprehensive set of transportation funding needs. The plan is funded first by General Fund allocations that were required in Fiscal Year 2001. Over the life of the plan another major funding source is the transfer of the state sales tax that is applied to gasoline sales.

The TCRP requires that the sales tax from gasoline sales be deposited in the Transportation Investment Fund. These transfers are required through Fiscal Year 2006 and after FY 2006 these funds would revert back to the General Fund. Until FY 2006 The State Controller is required to allocate $169 million each quarter ($676 million annually) from the TIF to the projects in the TCRP. The remaining funds are to be allocated 40% to the STIP, 40% to cities and counties for street and road repair, and 20% to the Public Transportation Account; the 40/40/20 split. Since half of the 20% that goes to the Public Transportation Account actually returns to the STIP, this distribution of the funds would be better described as the "50/40/10" split.

AB 227 would make the transfer of the sales tax to the TIF permanent. AB 227 allows the allocations to TCRP projects to expire in FY 2006 and by doing so would require the 40/40/20 split to be applied to all proceeds in the TIF after FY 2006. Staff believes AB 227 maintains an unequal funding allocation between the STIP and transit services.

SB 829 as proposed by Senator Karnette would make the transfer of the sales tax permanent and would also allow the allocations to the TCRP projects to expire. SB 829, however, proposes to modify the allocation formulas to provide 1/3 of the funds to each of the recipient uses; the STIP, cities and counties and the PTA. SB 829 would then reduce the amount of funds for cities and counties.

Staff is concerned that, although the TCRP made a significant investment in transportation, the long-term operating funding needs of the projects still remain. The allocation of the sales tax to the PTA will help to offset that impact. Since half of those funds are ultimately allocated to other capital projects, the influx of operating funds is only in that half of the funds that are actually directed to transit services. AB 227 perpetuates this inequity by maintaining the allocation into the PTA rather than directly into the STA. SB 829 fixes this problem, but creates another by reducing the funds for cities and counties. Staff recommends pursuing a more favorable allocation to transit services and a corresponding reduction in STIP allocations. The formula could be modified in such a way as to increase the amount of funds for transit while not impacting the amount for cities and counties.

Cities and counties including the League of California Cities and the California Association of Counties support AB 227.

Staff, therefore, recommends that the MTA Board of Directors adopt a support position only if AB 277 is amended. Staff would recommend amendments that more equally allocate the funds to public transit on a long-term basis.

ATTACHMENT C

BILL: ACA 9

AUTHOR: ASSEMBLYMEMBER JOHN DUTRA (D-FREMONT)

SUBJECT: SALES TAXES APPLIED TO GASOLINE SALES

STATUS: SCHEDULED FOR HEARING IN ASSEMBLY TRANSPORTATION COMMITTEE ON APRIL 16, 2001

ACTION: SUPPORT

RECOMMENDATION

Staff recommends that the MTA Board of Directors support ACA 9.

PROVISIONS

ACA 9 would place, upon voter approval, into the State Constitution the Transportation Investment Fund (TIF), which receives the sales taxes applied to gasoline sales. ACA 9 includes language clarifying that the portion of the Constitution added by this measure does not prohibit modifications to the allocation formulas.

IMPACT ANALYSIS

ACA 9 is one of many measures proposed this year to make permanent and guarantee the transfer of the sales tax from gasoline sales to transportation-related purposes.

The passage of the Governor's Transportation Congestion Relief Plan (TCRP) created a substantial increase in transportation funding in the State of California and addressed a comprehensive set of transportation funding needs. The plan is funded first by General Fund allocations that were required in Fiscal Year 2001. Over the life of the plan the major funding source is the transfer of the state sales tax that is applied to gasoline sales.

The TCRP requires that the sales tax from gasoline sales be deposited in the Transportation Investment Fund. These transfers are required through Fiscal Year 06 and after FY 2006 these funds would revert back to the General Fund. Until FY 2006 the State Controller is required to allocate $169 million each quarter ($676 million annually) from the TIF to the projects in the TCRP. The remaining funds are to be allocated 40% to the STIP, 40% to cities and counties for street and road repair, and 20% to the Public Transportation Account (PTA), the (40/40/20 split). Since one-half of the 20% goes back to the STIP from the PTA, this would be more accurately described as the 50/40/10 split.

Since modifying the State Constitution must be approved by a popular vote in addition to approval by the State Legislature, the placement of the TIF into the Constitution would be creating additional safeguards for this type of funding. Removal of the TIF from the Constitution would require the same approval by a popular vote.

ACA 9 is being proposed as a companion measure with both AB 227 (Longville) and SB829 (Karnette). SB 829 (Karnette) would make the allocation permanent and would modify the allocations to more equitably fund public transit.

The placement of the TIF into the Constitution would ensure a stable and long term source of transportation funding. Since the proposal includes language that specifies the Constitution would not prohibit the amendment of the allocation formula, the general funding stream is stabilized and the flexibility to modify the formulas needed is still available.

Staff, therefore, recommends that the MTA Board of Directors adopt a support position on ACA 9.

ATTACHMENT D

BILL: **SCA 3**

AUTHOR: **STATE SENATOR BETTY KARNETTE (D-LONG BEACH)**

SUBJECT: **USE OF GAS TAXES FOR TRANSIT ROLLING STOCK**

STATUS: **SCHEDULED FOR HEARING IN THE SENATE TRANSPORTATION COMMITTEE ON APRIL 17, 2001**

ACTION: **SUPPORT**

RECOMMENDATION:

Staff recommends that the MTA Board of Directors support SCA 3.

PROVISIONS

Currently, Article IX of the State Constitution specifically excludes the use of gas taxes for maintenance and operating costs for mass transit power systems, and mass transit passenger facilities, vehicles, equipment and services.

SCA 3 would authorize, upon voter approval, that gas tax funds to be used for the capital, maintenance and operating costs for public mass transit vehicles.

IMPACT ANALYSIS

Under current law, a federal and state gas tax of $0.18 each ($0.36 total) is applied to each gallon of gasoline sold in California. State law allocates the $0.18 state gas tax amongst various uses. Article IX of the State Constitution specifically prohibits the use of the state gas tax from being spent on the maintenance and operating cost of mass transit systems and vehicles. SCA 3 would expand the eligible uses of those gas tax funds to include the capital maintenance and operating costs of public mass transit vehicles.

Relaxing the restrictions on gas tax funds has been a long-standing element of the MTA's Legislative Program. SCA 3 would accomplish this objective and provide flexibility to transportation planning agencies in its use of gas tax funds.

SCA 3 will be viewed as a significant policy shift at the State in that certain entities have felt that gas taxes should be used exclusively for highway-related purposes. SCA 3 challenges that notion by allowing these funds to be used for a broader array of transportation services. Taxes in the State are not allocated back to the source of their generation but gas taxes have been so restricted. SCA 3 would not remove the gas taxes from transportation related uses but rather the implementation of SCA 3 would help to achieve a more balanced multi-modal transportation infrastructure which would benefit all users.

Staff, therefore, recommends that the MTA Board of Directors support SCA 3.

ATTACHMENT E

BILL: **AB 1396**

AUTHOR: **ASSEMBLY MEMBER JOHN LONGVILLE**

SUBJECT: **CREATES THE PASSANGER RAIL IMPROVEMENT, SAFETY AND MODERNIZATION (PRISM) PROGRAM**

STATUS: **SCHEDULED FOR HEARING IN THE ASSEMBLY COMMITTEE ON TRANSPORTATION ON APRIL 23, 2001**

ACTION: **SUPPORT**

RECOMMENDATIONS

MTA staff recommends that the MTA Board of Directors adopt a support position on AB 1396.

PROVISIONS

AB 1396 would provide $100 million annually from the state's General Fund to the Passenger Rail Improvement, Safety and Modernization Program (PRISM).

This funding source would ensure that rail operators can meet equipment rehabilitation needs. All passenger rail including intercity, commuter and urban passenger rail would be eligible to receive these funds.

Annual funding would be shared proportionally among eligible agencies based on annual rail passenger vehicle miles, annual passenger trips and track-miles utilized. Because Amtrak pays a reduced rate for access rights, intercity rail services would receive credit for one-third of route miles-utilized. Agencies with the highest audited numbers would receive the most money but all agencies would receive a share of PRISM funds.

Agencies must match PRISM funds on a 50/50 basis, using any non-PRISM dollars. They must also meet local maintenance-of-effort funding requirements, ensuring that PRISM funds would not replace funds currently spent on rehabilitation and modernization.

IMPACT ANALYSIS

AB 1396, as introduced by Assembly Member John Longville, would create a dedicated and ongoing source of revenue to maintain and rehabilitate the state's aging passenger rail system. This measure would mimic the current State Highway Operations and Protection Program (SHOPP), which is relied upon to maintain the state highway system.

Supporters of AB 1396 believe that utilizing the State's General Fund is an appropriate source of revenue for this purpose because efficient and reliable rail service has become a statewide funding priority due to increased traffic congestion. However, given the current energy crisis, it is unclear if Governor Davis would make a commitment this large from the General Fund at this point in time. Nevertheless, staff recommends the Board of Directors adopt a support position on AB 1396 to further the discussion on this important matter.

MTA staff has been participating in discussions on the PRISM concept for the past several months. Rail agencies throughout the state believe there is a need for ongoing funding for rail safety and modernization.

Staff, therefore, recommends that the MTA Board of Directors support AB 1396.

ATTACHMENT F

BILL: **SB 547**

AUTHOR: **SENATOR LIZ FIGUEROA**

SUBJECT: **PROVIDES A TAX CREDIT TO EMPLOYERS WHO PURCHASE SUBSIDIZED TRANSIT PASSES FOR THEIR EMPLOYEES**

STATUS: **SCHEDULED FOR HEARING IN THE SENATE COMMITTEE ON REVENUE AND TAXATION ON APRIL 25, 2001**

ACTION: **SUPPORT**

RECOMMENDATIONS

MTA staff recommends that the MTA Board of Directors adopt a support position on SB 547.

PROVISIONS

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

SB 547 as introduced by Senator Liz Figueroa, would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2001, in specified amounts, for the cost paid or incurred by employers who provide subsidized transit passes to their employees.

This bill would also require the California Research Bureau to report to the Legislature on the credit created by this bill.

This bill would take effect immediately as a tax levy.

IMPACT ANALYSIS

This is an ideal way for the state to encourage increased use of public transit, without having to directly subsidize such service. This tax credit was previously on the books, but was allowed to sunset and never renewed. The Governor included it as a transit incentive in his proposed 2001-02 Budget.

Staff believe that benefits, such as decreased congestion and improved air quality in Los Angeles County, far outweigh the projected $2 million annual state cost of the tax credit to the general fund.

Staff, therefore, recommends a support position on SB 547. A support position is consistent with previous positions adopted by the Board of Directors on this issue.

ATTACHMENT G

BILL: **AB 984**

AUTHOR: **ASSEMBLY MEMBER LOU PAPAN (D-MILLBRAE)**

SUBJECT: **LEASE-LEASEBACK TRANSACTIONS**

STATUS: **PASSED ASSEMBLY COMMITTEE ON REVENUE AND TAXATION RE-REFERRED TO THE ASSEMBLY COMMITTEE ON APPROPRIATIONS**

ACTION: **SUPPORT**

RECOMMENDATION

Staff recommends that the MTA Board of Directors support AB 984.

PROVISIONS

Current law provides exemptions from state and local sales tax for passenger transportation vehicles that are sold or leased to the California Department of Transportation by a person or entity that received the property from the Department.

AB 984 would:

- Extend that exemption to public passenger vehicles sold or leased by a transit authority, special district or governmental entity and then leased back to the same agency.
- Defines public passenger transportation vehicles as rail passenger cars, locomotives and other rail vehicles, bus and van fleets and ferryboats used to provide public transportation.
- States that the exemption does not apply to the first or initial acquisition of the public transportation vehicle.

IMPACT ANALYSIS

Under current law Caltrans is specifically provided an exemption from state and local sales and use taxes when engaging in lease-leaseback transactions. In a lease-leaseback transaction a public agency leases a depreciable asset to a private equity investor allowing the investor to defer tax payment and providing the agency with a cash benefit. The agency then leases the asset back from the investor and operates the asset as per standard business operation.

Current tax laws could require the payment of sales tax on the transaction. Because the cash benefit to the public agency is less than the State of California's sales tax, the application of the sales tax would make it financially prohibitive for public transit agencies to pursue this type of financing mechanism.

The current statute only exempts Caltrans from the application of a sales tax to the leaseback portion of the transaction. While other public agencies may wish to pursue this type of financing mechanism, the lack of clarity in the code has inhibited these efforts.

The MTA has recently completed a lease-leaseback transaction with its Red Line Car fleet and is planning a similar transaction with light rail vehicles. The MTA's Red Line vehicles transaction was not subject to sales tax on the lease-leaseback based on previous Surface Transportation Board rulings and consultation with the Board of Equalization.

The MTA currently pays sales taxes on the initial acquisition of the vehicles. If the lease-leaseback transaction were subject to sales tax then the vehicles would be taxed twice. The application of the state sales tax to the lease-leaseback transaction would exceed the cash benefits received by the MTA making these transactions infeasible.

AB 984 would expand the exemption that is currently in statute solely for Caltrans to all public transit agencies thereby clarifying the availability of the exemption.

Based on the clarification provided by AB 984, staff recommends that the MTA Board of Directors support AB 984.

ATTACHMENT H

BILL: **AB 1079**

AUTHOR: **ASSEMBLY MEMBER JENNY OROPEZA**

SUBJECT: **2-WAY COMMUNICATION DEVICE ON ALL BUSES OPERATED BY OR FOR A PUBLIC AGENCY FOR PUBLIC TRANSPORTATION**

STATUS: **SCHEDULED FOR HEARING IN THE ASSEMBLY COMMITTEE ON TRANSPORTATION ON APRIL 23, 2001**

ACTION: **SUPPORT**

RECOMMENDATIONS

MTA staff recommends that the MTA Board of Directors adopt a support position on AB 1079.

PROVISIONS

AB 1079 as introduced by Assembly Member Jenny Oropeza, would require every bus operated by a public agency that provides public transportation services to be equipped with a 2-way communication device that enables the driver to contact the agency in the event of an emergency.

Two-way communication devices are defined as a radio, cellular telephone, or other similar device permitting communication between the bus driver and personnel responsible for the safety of operations of the public agency.

AB 1079 is sponsored by the Amalgamated Transit Union. Representatives of the Union have agreed to amend the proposal to mitigate issues of concern to the California Transit Association (CTA), as follows:

- Allow the continued operation of buses even if an infraction is found by the California Highway Patrol;
- Allow the bus operator to contract appropriate personnel, including a dispatcher, instead of the more restrictive "communication between the bus driver and personnel responsible for the safety of operations of the public agency" which is currently found in the bill;
- Include that contracted services such as taxis for dial-a-ride are not subject to the bill.

IMPACT ANALYSIS

In the settlement of the ADA class-action lawsuit filed by the ACLU in January 1998, the MTA is mandated to provide 2-way communication devices in all its buses. This conforms with federal law. All agencies currently contracted by the MTA are also required to comply with this mandate. If a contract agency is found to be out of compliance, the MTA will impose liquidated damages. By contract, a vehicle with an inoperable system is not to be in circulation.

Ten to twenty inoperable radios on MTA buses are reported system-wide on a daily basis. Buses with inoperable equipment can leave the yard as long as they have a cell phone. Each MTA Division is equipped with five cell phones.

The impact, therefore, of AB 1079 on the MTA would be negligible. Staff recommends a support position on the proposed CTA amendments to AB 1079.