

TRANSPORTATION, COMMUNICATIONS & PUBLIC WORKS POLICY COMMITTEE

Thursday, March 29, 2012

10:00 a.m. – 3:00 p.m.

DoubleTree Hotel, Grove Room, Ontario, CA

Individuals who wish to review the full text of bills included in this packet are encouraged to do so by visiting the League's website at www.cacities.org/billsearch. Be sure to review the most recent version of the bill.

A G E N D A

| |
|--|
| <p>Special Order of Business Post Redevelopment & State Budget Update 10:00 – 10:45 a.m., Harvest Room, Doubletree Hotel, Ontario</p> |
|--|

- I. Welcome and Introductions**
- II. Public Comment**
- III. Approval of 2012 Committee Work Program (Attachment A)** *Action*
- IV. State Budget Update (Attachment B)**
 - 1. Creation of Transportation Agency *Information*
- V. State Legislative Update (Attachment C)**

**Due to the significant amount of legislation recently introduced and expected amendments, a supplemental State Legislative Update will be provided prior to the meeting.*

 - 1. AB 819 (Wieckowski). Bikeways. *Action*
 - 2. AB 1650 (Portantino). Public Utilities. Emergency/Disaster Preparedness. *Action*
 - 3. AB 1706 (Eng). Vehicles. Unladen Weight. *Action*
 - 4. AB 1897 (Campos). General plan: healthy food element. *Action*
 - 5. AB 2277 (Hueso). Adopt a Highway Program: Courtesy Signs *Action*
 - 6. AB 2559 (Buchanan). Natural Gas Pipelines: Pipeline Integrity Mgmt. *Action*
 - 7. AB 1627 (Dickinson). Environmental Quality: Building Standards: VMT. *Information*
 - 8. Water Quality Bill Package *Information*
- VI. Federal Update (Attachment D)**
 - 1. Transportation Reauthorization *Information*
- VII. Municipal Solar Programs: The City of Lancaster and Sun City** *Information*

Jason Caudle, Deputy City Manager, City of Lancaster, speaker
- VIII. Briefing and Discussion on High Speed Rail (Handout)** *Discussion*
- IX. Update on TCPW Working Groups** *Information*
- X. Next Meeting: THURSDAY, June 14, 2012, Sacramento Convention Center**

Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:

- 1) Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
- 2) A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

NOTE: Policy committee members should be aware that lunch is usually served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). The League has been persistent, but unsuccessful, in attempting to change the FPPC's mind about this interpretation. As such, we feel we need to let you know about the issue so you can determine your course of action.

If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you can reimburse the League. The lunches tend to run in the \$30 to \$45 range. To review a copy of the FPPC's most recent letter on this issue, please go to www.cacities.org/FPPCletter on the League's Web site.



COMMITTEE ON TRANSPORTATION, COMMUNICATION AND PUBLIC WORKS

2012 Work Program - DRAFT

1. LEAGUE 2012 STRATEGIC GOALS

The committee will focus on supporting the 2012 goals adopted by the League Board of Directors. The 2012 strategic goals include:

- **Support Sustainable and Secure Public Employee Pensions and Benefits.** Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.
- **Promote Local Control for Strong Cities.** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.
- **Build Strong Partnerships for a Stronger Golden State.** Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity and responsiveness of our state government and intergovernmental system.

2. TRANSPORTATION DELIVERY

Support Caltrans' use of outside contracts to accelerate completion of outstanding projects. Continue to work with Caltrans and other agencies to expedite project delivery and optimize transportation funds. Continue participation in the City-County-State-Federal Cooperative Committee (CCSFCC). The committee will also monitor and provide comments, as appropriate, on the federal transportation reauthorization program process and federal grant monies for local agencies.

3. TELECOMMUNICATIONS

Various telecommunications industry providers are calling for changes in how they are regulated and urging legislators and regulators to adopt laws and regulations that will create a level playing field. As necessary, the committee will take action on specific proposals that emerge to ensure that local government interests are protected.

4. PREVAILING WAGES

Prevailing wages are a statewide concern. The committee will examine issues relating to prevailing wages as necessary.

5. ETHICS PROGRAM

The committee will monitor issues related to ethics and impacts on local government officials.

6. QUIET ZONES

The committee will continue to learn about quiet zones.

7. DIESEL ENGINES RETROFIT

The committee will be updated on diesel engines retrofit issues.

8. SAFETY FOR MOTORISTS AND TRAVELING PUBLIC

The committee will be updated on safety issues impacting motorists, cyclists, pedestrians, and other members of the traveling public.

9. WATER INFRASTRUCTURE

The committee will review and take action as appropriate on issues related to local government facilities that process or treat water resources including stormwater, wastewater, or recycled water. The committee will also hear updates from the League's Water Task Force.

10. NEIGHBORHOOD VEHICLES AND COMMON CARRIERS

The committee will study the safety and usage of neighborhood electric vehicles, alternative motorized means of transportation (such as Segways) and non-motorized common carriers (such as rickshaws and pedicabs). Action will be taken as needed on related legislation and regulatory proposals.

11. RAIL ISSUES

The committee will monitor, study, and recommend action whenever appropriate on rail-related issues including California's High Speed Rail Project and federal rail funding.

12. LEGISLATION

Review and monitor legislation as it relates to transportation, public works, ADA Compliance, Energy and High Speed Rail. The committee will also support the sponsorship of the following legislation:

- Project Initiation Documents Response Standards
- CalTrans Business Logo Signs Program Expansion

| BT&H Agency Proposed Reorganization | | |
|--|---|---|
| Current BT&H Agency | | Proposed Transportation Agency |
| <u>Transportation-Related</u> | | |
| * California Transportation Commission | → | California Transportation Commission |
| CA Dept of Transportation (Caltrans) | → | CA Dept of Transportation (Caltrans) |
| * High-Speed Rail Authority | → | High-Speed Rail Authority |
| Board of Pilot Commissioners | → | Board of Pilot Commissioners |
| California Highway Patrol (CHP) | → | California Highway Patrol (CHP) |
| Dept of Motor Vehicles (DMV) | → | Dept of Motor Vehicles (DMV) |
| Office of Traffic Safety (OTS) | → | (OTS merged into DMV) |
| | | |
| | | Proposed Business & Consumer Affairs Agency |
| <u>Housing-Related</u> | | |
| Housing and Community Dev. (HCD) | → | Housing and Community Development |
| CA Housing Finance Agency (CalHFA) | → | (CalHFA merged into HCD) |
| | | |
| <u>Business-Related</u> | | |
| Alcoholic Beverage Control (ABC) | → | Alcoholic Beverage Control (ABC) |
| ABC Appeals Board | → | ABC Appeals Board |
| Dept of Financial Institutions (DFI) | → | Department of Business Oversight |
| Corporations | → | (merged DFI and Corporations) |
| Real Estate Appraisers | → | Department of Consumer Affairs (DCA) |
| Real Estate | → | (Real Estate merged into DCA) |
| | | <i>Some other Departments currently in the State and Consumer Svcs Agency</i> |
| | | |
| | | Governor's Office of Business and Econ Dev (GO Biz) |
| <u>Economic Dev. Offices within BT&H</u> | | |
| Infrastructure Bank | → | Infrastructure Bank |
| Film Commission | → | Film Commission |
| Tourism Commission | → | Tourism Commission |
| Small Business Loan Program | → | Small Business Loan Program |
| California Welcome Center Program | → | California Welcome Center Program |
| * Functionally within BT&H, but statutorily independent. | | |

Hearing Questions: The Administration is still working on details, but since the reorganization plan was included in the January Governor's Budget Summary, the Administration should be able to respond to the opportunities and goals they see related to the proposal. The Subcommittee may want to hear from the Administration

TRANSPORTATION, COMMUNICATIONS, AND PUBLIC WORKS
Legislative Agenda
March 2012

Staff: Lobbyist: Jennifer Whiting (916) 658-8249

4. AB 1897 (Campos)- Local use: general plan: healthy food element.

Bill Summary:

This bill will require cities and counties to add the general plan an element for healthy food. The element shall include a plan to increase access to healthy affordable food within the jurisdiction of the city and county. Access to healthy food includes:

- Access to full and discount grocery stores
- Access to urban farming
- Access to community or school gardens
- Access to farmers markets
- Access to affordable food, including retail spaces that accept CalFresh or WIC benefits
- Access to transportation when approving a grocery stores, including bus stops or other mass transportation stops, free or low cost shuttles to and from the store, taxi vouchers, and car pool programs

This bill would have cities and counties consider developing incentives for new grocery stores that do one or more of the following:

- Incorporate green energy
- Provide community meeting space
- Conduct nutrition and cooking classes in store
- Commit a certain percentage of fair trade products within the store
- Hire locally
- Offer composting and environmentally friendly cleaning supplies
- Offer nutritional label tags on the shelves

The current language in the bill requires cities and counties to comply with this element. However, the author's office has indicated that they have amendments into Leg. Counsel to change it from a mandate to "encourage".

Background:

The purpose of this bill to increase access to healthy foods which can improve health, decrease health care costs, and increase revenue to the area by recapturing dollars spent at grocery stores outside the local area. The author believes that local governments should plan for the health and economic well-being of their area by including strategies to increase access to healthy food.

Staff Recommendation:

Discuss whether the League should or should not recommend a position to the Board, and what that position should be.

Some of the issues the committee may want to discuss are:

- Does encouraging healthy food and lifestyles *need* to be incorporated into a general plan?
- If the committee decides to support or oppose the bill based on the current language, does the position change if the mandate is removed and instead uses language to “encourage”.
- The League has supported efforts such as Healthy Eating Active Living (HEAL) which works with cities to adopt policies that improve the physical activity and food environments for municipal residents and employees through land use, healthy food, and wellness.
- If the committee opposes the bill, are there amendments that would remove the League’s opposition.

Committee Recommendation:

Board Action:

Fiscal Impact:

The cost could be substantial because cities will have to develop a new element to their general plan. In addition, local governments are supposed to zone sufficient land for grocery stores and urban agriculture.

Existing League Policy:

Planning and Zoning- General Plans- A city’s general plan should guide the individual city’s land use planning and strategic decision-making. A city’s general plan should not be subject to mandatory reviews by regional or state agencies. General plan requirements should be flexible and provide guidance to local communities without requiring inappropriate levels of detail or mandating new topics or elements.

Community Services- Healthy Cities- The League encourages California cities to help parents make healthy family choices; create healthy schools; provide access to healthy and affordable foods; and promote physical activity.

Comments:

Support-Opposition:

Support: (as of March 14, 2012)
None

Opposition: (as of March 14, 2012)
None.

7. AB 1627 (Dickinson) – Environmental quality: building standards: vehicle miles traveled.

Bill Summary:

- Requires the California Energy Commission (CEC) to prescribe regulatory standards for reducing vehicle miles traveled (VMT) for occupants of a building for new residential

and nonresidential buildings as well as modification of existing residential and nonresidential buildings.

- Prohibits local governments from issuing building permits unless it can confirm that the building plan complies with those standards developed by the CEC.

Background:

In 2008, the League supported SB 375 (Steinberg) after a year and a half of grueling negotiations that resulted in local governments, the business community, and regions working together to adopt strategies that reflect available resources, unique local conditions and priorities. Critical to the agreement was the need for local flexibility; a reduction in greenhouse gases was through incentives, not mandates; and the California Air Resources Board established the greenhouse reduction target and confirmed that the plan adopted by the region would achieve the target, but the details of the specific strategies was left to local governments.

Staff Recommendation:

The League has taken an oppose position on this bill based upon existing principles and guidelines. However, the issue surrounding infill has become very popular among environmental groups and the infill builders. Not only has AB 1627 been introduced, but there have been efforts through developing guidelines for SB 226 (Simitian) in the Governor’s Office of Planning and Research (OPR), and the Strategic Growth Council’s (SGC) Strategic Plan to promote infill and remove the barriers to infill. While the League is not opposed to infill development, we would like to participate in the discussions and provide our expertise in removing barriers to infill. In addition, because of the long and arduous negotiations involving SB 375, the League feels that AB 1627 will unravel that agreement between the parties involved, scarcely after SB 375 has begun to be implemented.

Committee Recommendation:

Board Action:

Fiscal Impact:

The costs to implement AB 1627 on cities will be substantial. The regulations adopted by the CEC are required to be enforced by the building department of every city, county, or city and county. Cities will be required to review the plans for the proposed building and confirm that the building satisfies the minimum standards for VMT. The bill provides cities by ordinance or resolution to prescribe a schedule of fees to pay the costs incurred by enforcement. No reimbursement is required by this bill because local governments have the ability to levy fees sufficient to pay for the program mandated by this bill.

Existing League Policy:

HCED- Scope of Responsibility- The principle behind the policies reviewed by the Committee on Housing, Community and Economic Development is to foster local control of community planning decisions as they relate to land use and economic development.

Planning and Zoning- General Plans- The League supports guidance by expert state agencies in a consultation format but opposes granting mandatory review, certification or other approval authority to another level of government.

Planning and Zoning- Zoning- State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations.

TCPW- Transportation- The League supports enhanced autonomy for local transportation decision-making and pursues transportation policy changes that move more dollars and decisions to local policy leaders.

Comments:

For the committee's information, also included in the discussion of AB 1627, the League has included: a copy of a sample oppose letter, a letter that was written in the Western Cities magazine about SANDAG's Sustainable Communities Strategy (SCS), and a cover letter that was sent to all 120 members of the Legislature along with the Western Cities article.

Support-Opposition:

Support: *(as of March 14, 2012)*

Planning and Conservation League (Sponsors)

Victoria Transport Policy Institute

The College of Environmental Design City and Regional Planning at UC Berkeley

Opposition: *(as of March 14, 2012)*

League of California Cities

California Building Industry Association



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

March 9, 2012

The Honorable Roger Dickinson
California State Assembly
State Capitol Building, Room 3126
Sacramento, CA 95814

RE: AB 1627 (Dickinson). Building Prohibitions: building standards; vehicle miles traveled.
(as introduced February 9, 2012)
Notice of Opposition

Dear Assembly Member Dickinson:

We regret to inform you that the League of California Cities opposes AB 1627, which would prohibit local governments from issuing local building permits until it has been confirmed that the building satisfies standards designed to reduce vehicle miles traveled (VMT) by occupants of residential and nonresidential buildings. These standards are to be developed by California Energy Commission (CEC).

The stated intent of AB 1627 is to “ensure that the promise of SB 375 is realized.” In effect, however, this measure unravels the carefully negotiated agreement between the parties involved in SB 375, scarcely after the bill has even begun to be implemented.

After long and tortuous negotiations, the League and other business and local government organizations supported SB 375 in its final version. Critical to that agreement was the retention of needed flexibility for local governments, the business community, and regions working together to adopt strategies that reflected available resources, unique local conditions and priorities. State micromanagement was specifically excluded from the measure. The role of the California Air Resources Board (CARB) was appropriately limited to a determination of whether or not the adopted Sustainable Communities Strategy (SCS) met the region’s assigned target. By attempting to impose an overbearing state regulatory framework on all new development, this measure undermines that delicate balance.

The San Diego Association of Governments (SANDAG) is the first agency in California to adopt its SCS. As confirmation of their successful efforts, CARB concurred that the plan adopted by the region met its targeted reductions. This is exactly how SB 375 was intended to work. While it is regrettable that several parties have now elected to litigate, this should not undercut the significant efforts that local agencies have made in the San Diego region. Other regions are in various stages of developing an SCS and deserve to have the same flexibility that SANDAG experienced under SB 375.

The League also has concerns with the following aspects of this measure:

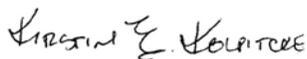
- **This? On Top of Redevelopment?** Cities around the state have just suffered a devastating blow with the loss of redevelopment agencies. Redevelopment was the most powerful tool the state had to promote affordable housing, transit-oriented development, and renovate urban cores. Local agencies have virtually no tools left to resolve the challenges of infill: cleaning up brownfields; small lot assembly; upgrading sewer, water and other infrastructure to support high-density development; providing affordable housing; and other issues. Saddling these communities with costly mandates at this time is ill considered and will not achieve desired outcomes.
- **Attempting to control individual choice:** AB 1627 specifically seeks to reduce VMT by the occupants of residential and nonresidential buildings through “all feasible and attainable

means.” This is a shockingly broad mandate to empower a state agency to regulate the choices of individuals. How will these restrictions be ultimately measured? How will they be enforced?

- **Halting economic growth:** Local agencies will be prohibited from issuing a building permit until it can confirm that the project meets the minimum standards set by the CEC. Overly restrictive and intrusive requirements imposed on new units and their occupants will further exacerbate California’s economy by making new construction in the state less marketable and desirable.
- **Reality of a free market:** A prized feature of the American political system is the belief in free markets and freedom of individual choice. These choices include: where one chooses to work, live, how many children to have, how many cars to own, whether to sign up for a traveling soccer team and countless other benefits of a free society. There are limits to how much government can impose on individual choice.
- **Mandates cannot deliver VMT reduction:** AB 1627 can’t make people live where they work or get rid of their car. Once a building permit is issued there is no way - other than having the state tracking and enforcing limitations on automobile use by individuals - to guarantee that VMT will be reduced. Carpool incentives and transit investments can be made, but resources and conditions differ. Bakersfield is not going to be able to reduce VMT in the same manner or amount as San Francisco.
- **CEC’s expertise is in energy, not land use planning or VMT.** This bill’s mandate strays far beyond the traditional role of the CEC to improve the efficiency of appliances and the building envelope. CEC’s primary function is to look at energy needs, promote energy efficiency, and support energy research. The CEC is an illogical and inappropriate choice to establish standards to reduce VMT. SB 375’s wisely constructed framework allows regions and local agencies, which have expertise in these matters, to have flexibility to develop local solutions.
- **Costs imposed on individuals not a factor:** In previous regulatory efforts the CEC was charged with balancing the cost of a new energy efficiency standard against the lifecycle cost imposed on the individual. Not so here. AB 1627 requires the CEC to determine the feasibility and attainability of the standards based on the economic, social and environmental costs for the “state as a whole” not the costs to individuals or businesses that may be particularly detrimentally impacted by the requirements.
- **VMT reduction burden carried by the few.** For those that are not fortunate enough to already have a home, this bill will unfairly impact their future opportunities to purchase or rent housing by dramatically increasing the costs. AB 1627 does not consider the increased costs to the building industry as a result of the mandates of the CEC, or the burden of paying local governments to hire staff to confirm that the development meets the CEC standards.
- **Excludes more cost effective measures.** AB 1627 requires the use of costly compliance options to reduce VMT, but specifically precludes cost-effective measures such as the energy efficiency of structures, use of alternative fuels, or fuel efficient vehicles.

For these reasons, the League opposes AB 1627. If you have any questions regarding the League’s position on this bill, please do not hesitate to contact me at (916) 658-8250.

Sincerely,



Kirstin Kolpitcke
Legislative Representative

cc: Chair and Members Assembly Business, Professions and Consumer Protection Committee
Joanna Gin, Consultant, Assembly Business, Professions and Consumer Protection Committee
Ted Blanchard, Republican Consultant, Assembly Business, Professions and Consumer Protection Committee

House Transportation Reauthorization

Note to TCPW Members: Due to time constraints, this item was taken directly to the Board of Directors at the February Board meeting. It is being provided to the committee as background.

Summary:

House and Senate transportation authorizing committees kicked off February with a flurry of action on legislation to reauthorize the nation's surface transportation law, SAFETEA-LU, with the House's Transportation and Infrastructure, Natural Resources and Ways and Means Committees and the Senate's Banking Housing and Urban Affairs and Finance Committees all completing markups on their respective portions of their chambers' transportation reauthorization packages. This update provides a summary of the components of each of these measures, and discusses the timeline for additional action on the bills. The bills summarized are:

HR 7 – American Energy and Infrastructure Jobs Act (AEIJA)

HR 3410 – Energy security and Transportation Jobs Act

HR 3408 – Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act

HR 3407 – Alaska Energy for American Jobs Act

HR 3864 – American Energy and Infrastructure Jobs Financing Act of 2012

HR 7 – AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT (AEIJA)

On February 2 the House Transportation and Infrastructure Committee approved the American Energy and Infrastructure Jobs Act of 2012 (HR 7), an 800-page, five-year, \$260 billion surface transportation reauthorization package. The bill was approved following an 18-hour markup session that was largely consumed by partisan discord over nearly 100 amendments proposed to the package. HR 7 authorizes a slight funding increase for federal transportation programs over SAFETEA-LU, providing \$52.6 billion per year to SAFETEA-LU's \$47.7 billion per year. However a significant amount of controversy exists over the bill's accompanying financing component, which was organized by the House Ways and Means Committee to provide funding for the measure (see story below). The bill maintains the current 80-20 split between federal highway and public transportation programs, and would provide an average of \$41.1 billion per year for highways from FY 2013 - FY 2016 as well as \$8.4 billion per year for public transportation grant programs over this same period. Much like its Senate counterpart (MAP-21), HR 7 aims to achieve efficiencies in federal transportation program organization and function. Towards this end the bill consolidates federal transportation programs, reducing the total number of programs from 100 to 30. A summary of the bill is as follows:

Core Highway Programs: In the highway program area, the bill would eliminate the Safe Routes to School; Transportation, Community and System Preservation (TCSP); and Projects of National and Regional Significance programs. The bill would also do away with the Interstate Maintenance and Highway Bridge programs and place their functions into the National Highway System (NHS) and Surface Transportation (STP) programs.

- **STP:** Under the bill the STP program would retain the flexibility to invest in a broad range of activities including highways, transit, bike and pedestrian projects and travel demand

management. However, the bill eliminates the 10 percent set-aside for transportation enhancement (TE) activities. Certain activities from current law's definition of TEs, such as historic preservation, maintenance of abandoned railway corridors and establishment of transportation museums would be removed. The bill also reduces the formula distribution of the funding so that 50 percent of the program would be sub-allocated to areas within the state based on population. This percentage is lower than the current 62.5% of STP funding that is distributed to MPOs. The bill would also preserve existing MPOs, with the caveat that new MPOs meet a minimum population threshold of 100,000. Also provides that if a state and MPO cannot agree on programming of a project of statewide significance on the interstate system into a metropolitan TIP, the Governor may override an MPOs programming authority by modifying a TIP to add the project without approval of the MPO.

- **NHS:** The bill consolidates the existing National Highway System, Interstate Maintenance and Highway Bridge programs into a single program focused on improvements to the National Highway System, as it exists today. The NHS and STP programs are modified in the bill to establish a national highway bridge and tunnel inventory at DOT in consultation with states and other federal agencies. DOT would be required to establish national highway bridge and tunnel inspection standards under the modification. The legislation would also require that states spend at least 10 percent of their NHS apportionments each year on NHS bridges if DOT determines that at least 10 percent of the state's total NHS bridge deck area is structurally deficient. If DOT determines that at least 15 percent of the total deck area of a state's off-system bridges are structurally deficient, then the state must spend an amount equal to 110 percent of what the state spent on off-system bridges in FY 2009 in the new year (to be taken from the state's STP apportionment).
- **Highway Safety Improvement Program (HSIP):** The program provides funding to improve safety for road users on all public roads. It defines the term road user to include both motorized and non-motorized users, and requires states to collect data to help with the identification and improvement of hazard locations, including information on bicycle and pedestrian safety. Under the legislation states must have an updated strategic highway safety plan within a year to spend funds from this program. The bill would continue to set-aside \$220 million for railway-highway crossing improvements and directs state transportation departments to fund the highest risk crossings.
- **Congestion Mitigation Air Quality (CMAQ):** The bill would maintain the CMAQ program with several modifications. It shifts funding for the program from the Highway Account of the Highway Trust Fund to the new 'Alternative Transportation Account' – currently the Mass Transit Account – in the Highway Trust Fund. The bill would also allow ordinary highway expansion/construction to be an eligible project, whereas previously only highway projects for HOV lanes were eligible. The funding for this program, unlike other highway programs that increase year over year, would be level funded over the five year period of the bill.

Other Highway Provisions and Policies: In addition to modification of core programs, the House Transportation and Infrastructure Committee's proposal would also alter several other DOT programs traditionally funded through the Federal Highway Administration (FHWA).

- **Transportation Infrastructure Finance and Innovation Act (TIFIA) Program:** Like its Senate counterpart, the bill would increase funding for the TIFIA program from \$122 million per year to \$1 billion. However the House Transportation and Infrastructure Committee measure would also amend current law to allow retroactive reimbursement of project costs; allow Public Private Partnerships (PPPs) to be named last as an obligor in an application by a state or municipality; add creditworthiness standards including an "investment grade" rating from at least two credit agencies (one agency if the project senior debt is less than \$75 million) and add regional significance and beneficial effect selection criteria. The legislation would also allow TIFIA credit instruments to finance 100 percent of development phase activities; increase the maximum TIFIA share of project costs from 33 percent to 49 percent and direct DOT to reduce the time and cost of the TIFIA approval process.
- **Infrastructure Banks:** The legislation would also provide \$750 million per year to a new program of formula grants to capitalize State Infrastructure Banks (SIB), and increase the percentage of a state's annual highway apportionments that can be used to capitalize a SIB from 10 percent to 15 percent.
- **Public Private Partnerships (PPPs):** HR 7 would require DOT to publish PPP best practices on its website and to provide technical assistance to states and municipalities for PPP projects. The bill would also direct DOT to develop standard model PPP contracts within 18 months of enactment.
- **Project Delivery:** The bill includes many provisions related to the environmental review and permitting process. Specifically the bill would require federal agencies to combine the final environmental impact statement and record of decision if the preferred alternative is being approved rather than issue them separately. The legislation would also require federal agencies conducting environmental reviews to make a final determination for a project under review within 30 days of the final environmental impact statement or other assessment being made available. Under the language projects would be automatically approved if that determination were not made within the required 30 days. The legislation would also permit states to proceed with engineering and rights-of-way acquisition while the environmental review is under way, and allow states to be reimbursed for the federal portion of transportation projects only if the project were subsequently approved.
- **Goods Movement:** The legislation would require DOT to consult with public and private stakeholders and produce a five-year National Freight Policy within one year of enactment, encourage states to establish freight advisory committees and plans that provide comprehensive plans for immediate and long-term freight investment needs.
- **Ferry Boats and Terminal Facilities:** The bill would modify the ferry boats and ferry terminal facilities program to strike the allocation structure on which the program is presently based (which directs \$20 million in set-asides for Washington State, Alaska and New Jersey) and create a new apportionment formula for states as follows - 35 percent for total annual vehicles carried by ferry, 35 percent based on total annual passengers carried by ferry, and 30 percent for total ferry route-mile systems.

Core Public Transportation Programs: The public transportation portion of the bill contains some of the measure's most controversial elements, including the elimination of the Mass Transit Account from the Highway Trust Fund (see summary of House Ways and Means Committee markup below). In addition, this area of the bill consolidates smaller grant programs such as the Job Access and Reverse commute (JARC) (Sec. 5316) program, the New Freedom (Sec. 5317) program, and Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities (Sec. 5310). However the bill retains the primary transit programs, which include the Section 5307, 5309 and 5311 programs.

- **Urbanized Area Formula Grants (Sec. 5307):** The bill would make no major changes to the program except that the Growing States and High Density (5340) program would be cut and its funding shifted to the 5307 program. In addition, the proposal would eliminate the requirement that 1 percent of funds in urbanized areas with populations over 200,000 be spent on transit enhancements.
- **Rural Area Formula Grants (Sec. 5311):** The proposal would increase funding by more than 40 percent for this program, as well as include new factors in the distribution formula related to intensity of transit service provided in an area. Under the bill, goals are established for the program related to improving mobility and access as well as coordination. In addition, there are provisions in the measure that allow funds from private bus operators to match federal funds to support and expand intercity bus service.
- **Coordinated Access and Mobility Program:** This program is a consolidation of three specialized transit programs – the Elderly and Disabled (Sec. 5310), Job Access Reverse Commute (Sec. 5316) and New Freedom (Sec. 5317) programs. Funding for these programs is increased approximately 25%.
- **Fixed Guideway Modernization Formula Grants (Sec. 5309):** Overall the purpose of this program remains unchanged in the House Transportation and Infrastructure Committee measure. The House proposal would establish goals for the program including improving the state of good repair of fixed guideway transit systems and increasing transit ridership.
- **Bus and Bus Facilities (Sec. 5309, Sec. 5318):** This program would be modified from a discretionary grant program into a formula program, with overall funding for the program reduced under the bill by 15 percent. The altered program would also limit recipients of the formula program to transit agencies in urbanized areas that operate fixed route bus service and do not operate rail service (including heavy, commuter or light rail service).
- **New Starts and Small Starts (Sec. 5309):** The legislation would authorize approximately \$2 billion in general funds for new fixed guideway transit projects, and would streamline the existing project approval process by eliminating the Alternatives Analysis step and consolidating other steps. The project evaluation criteria would also be modified, and the proposal would set aside \$150 million for Small Start projects.

Other Public Transportation Provisions and Policies: In addition to adjustments made to the core programs, the House Transportation and Infrastructure Committee's proposal would also alter several other DOT policies with regard to public transportation.

- **Private Sector Participation policies:** The proposal would make several changes to policies related to private sector participation in the provision of public transportation, including allowing private funds to match federal funds to enhance vanpool service, allowing the Federal Transit Administration (FTA) to set standards for private sector participation in providing transit service, and create incentives for transit providers to contract out service.
- **Passenger Rail Investment and Improvement Act (PRIIA) Grants:** The proposal would eliminate the congestion grants authorized by PRIIA, as well as certain grants for class II and III railroads and the requirement that projects selected for Intercity Passenger Rail Capital Grants be included in a state rail plan. The legislation would also extend the deadline for implementation of Positive Train Control (PTC) systems from December 31, 2015 to December 31, 2020. In addition, the legislation would make high-speed intercity passenger rail an eligible expense under the Railroad Rehabilitation and Improvement Financing (RRIF) program. Beyond these provisions, an amendment offered by California Congressman Jeff Denham during markup of the measure was adopted that would prohibit federal transportation funds from being used to support high-speed rail in California.

House Transportation and Infrastructure Committee Chairman John Mica (FL) has indicated that he intends to merge this measure with the corresponding legislation marked up by the House Natural Resources and Ways and Means Committees and bring the full package to the House floor for consideration next week. Floor debate on the measure is expected to occur under an open rule process, which will allow a wide assortment of amendments to the bill to be considered.

HOUSE NATURAL RESOURCES COMMITTEE APPROVES HR 3408, 3407 and 3410

On February 1 the House Natural Resources Committee approved three measures - the Energy security and Transportation Jobs Act (HR 3410), the Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act (HR 3408) and the Alaska Energy for American Jobs Act (HR 3407) - that together are designed to provide revenue support for the House's SAFETEA-LU reauthorization package. The three bills would expand onshore and offshore oil drilling, including drilling in the Arctic National Wildlife Refuge and areas off the Southern California Coast and in the Eastern Gulf of Mexico, and dedicate revenue from future oil and gas production to help pay for programs under the House reauthorization package. House Ways and Means Committee Chairman Dave Camp (MI) expects these new revenues to provide \$10 billion over the life of the bill, however the Congressional Budget Office (CBO) issued a report in 2011 that suggested that revenues derived from these sources would likely fall between \$5 and \$7 billion. The CBO report also suggested that any revenues of this nature would likely take years to materialize, as production and the resulting payments of royalties typically begin several years after the issuance of a lease because of the time needed to prepare exploration and development plans and bring any discovered oil or gas resources into production. Disagreement over the amount of revenue that will be generated from these proposals and the anticipated timeline for these revenues to appear have only added to the controversy surrounding

the House's reauthorization package. The impact of this misunderstanding is discussed in the last portion of this update below.

HOUSE WAYS AND MEANS COMMITTEE APPROVES HR 3864

On February 3 the House Ways and Means Committee approved the American Energy and Infrastructure Jobs Financing Act of 2012 (HR 3864), which would extend expenditure authority for the Highway Trust Fund through 2016 and extend the taxes that are deposited into the trust fund through 2018, including the 18.4 cents per gallon federal gas tax. The bill also calls for the energy leasing and production programs to dedicate funding to the Highway Trust Fund as outlined in the three energy-related bills (HR 3407, HR 3408 and HR 3410) approved on February 1 by the House Natural Resources Committee.

In addition to this controversial funding mechanism, the bill also generated anxiety among public transportation supporters by eliminating the Mass Transit Account of the Highway Trust Fund. Under the bill, the Mass Transit Account, which has provided a dedicated source of funding to public transportation programs for 30 years through the 2.86 cents per gallon on motor fuel, would be replaced by a new Alternative Transportation Account. The Mass Transit Account has also drawn roughly 20 percent of its funding from the Treasury's General Fund. This new account would receive funding through a one-time \$40 billion transfer to the account from the Treasury's General Fund, and would receive no funding whatsoever from the Highway Trust Fund. The one-time transfer would also fund the Congestion Mitigation and Air Quality (CMAQ) program. HR 3864 does not specify how it will offset this \$40 billion transfer, but House leadership has indicated that it intends to raise this revenue through increased federal employee pension benefit contributions.

APTA, the U.S. Conference of Mayors (USCM) and the National League of Cities (NLC) have all demonstrated strong opposition to the elimination of the Mass Transit Account, as have a number of House members. An amendment was offered during the Ways and Means Committee markup of this measure by Representatives Earl Blumenauer (OR) and Charles Rangel (NY) to strike provisions that removed transit program funding from the Highway Trust Fund, however the amendment failed on a 15-22 vote. In addition to the loss of a dedicated funding source for public transportation, opponents of this proposal have expressed concern about subjecting federal transportation programs to the intense competition for annual funding that exists in the federal appropriations process. This concern stems from the intense executive and legislative branch focus on achieving \$1.2 - \$1.5 billion in deficit reduction targets (as dictated by dictated by the Budget Control Act) through mandatory spending cuts to federal accounts using the annual appropriations process. In this environment federal public transportation programs would be forced to compete with a broad and diverse group of programs for funding on an annual basis.

HOUSE AND SENATE FLOOR CONSIDERATION REAUTHORIZATION IMMINENT

House and Senate leaders are now working to gain passage of the measures discussed above and face a March 31 deadline to complete work on a new authorization measure or pass another short-term extension of SAFETEA-LU. While Congress has already approved eight extensions since SAFETEA-LU expired in September of 2009, the significant differences that exist between the House and Senate reauthorization measures make it much more likely that transportation stakeholders can expect a ninth extension before a bicameral accord on a multi-year

reauthorization is reached. For instance, while both chambers' measures provide level funding for federal transportation programs, the chambers differ on the length of their proposals and the method by which funding is arranged to support these programs. The House package would provide \$260 billion over five years and capture resources that are lacking from current gas tax receipts through future oil and gas production, while the Senate package would provide \$109 billion in funding over two years utilizing mostly traditional transportation funding mechanisms. These discrepancies will need to be resolved when House and Senate transportation leaders begin conference discussion on the two packages, and these negotiations are expected to be lengthy.

However prior to such negotiations House leaders must first gain approval of their reauthorization package on the floor. House Transportation and Infrastructure Committee Chairman John Mica has indicated that consideration of the House reauthorization package will proceed during the week of February 13, though securing passage of the package is not expected to occur without some difficulty. House Republican leaders face disagreement among members within their own party over the financing structure of the bill, with members of the powerful conservative voting block of the chamber expressing concerns that the energy-related financing components of the measure will provide funding to support federal transportation programs retroactively. Further, conservative policy groups such as the Club for Growth are refusing to back the measure, calling it "bloated and inefficient." The bill also received criticism for its financing proposal from Senate Environment and Public Works (EPW) Committee Ranking Member James Inhofe (R-OK) and Department of Transportation Secretary Ray LaHood. LaHood, a Republican who previously served for 14 years in the House representing Illinois' 18th congressional district, said of the bill "It's the worst transportation bill I've ever seen during 35 years of public service." House leaders can also expect most if not all of the chamber's Democrats to oppose the measure over environmental concerns related to oil drilling expansion and the elimination of dedicated funding for public transportation. The National Resources Defense Council and the AFL-CIO's Transportation Trades Department have already indicated opposition to the measure. Despite these obstacles, the House may add to the controversial nature of the bill by attaching to it a proposal that would initiate work on the Keystone XL Pipeline project. The project would transport crude oil from Canada and establish refineries in Illinois and create a distribution hub in Oklahoma and connect to refineries in Texas, and its inclusion in the House transportation reauthorization package has been criticized by Senate EPW Committee Ranking Member Inhofe and opposed by the White House.

Meanwhile the Senate is also moving quickly to bring its reauthorization package to the floor, and could begin floor discussions on the bill next week.

Staff Recommendation and Notes:

Below is a list of staff recommendations for the House version of the federal transportation authorization, the American Energy and Infrastructure Jobs Act (AEIJA). Several of these recommendations align with those given by the TCPW Policy Committee on the Senate version of the bill, MAP-21. However, there are several areas unique to HR 7.

Given the political climate it is unlikely that the bill in print today will not be the bill implemented, but League staff has been advised that it is important to weigh in on issues as soon

as possible before the bill is taken up on the floor. Staff notes that League policy committees and the Board may need to revisit these recommendations, as well as additional recommendations, at future meetings.

Staff comments (in italics) follow each recommendation.

1. Support the use of current funding levels, at minimum.
This aligns with the TCPW recommendation for MAP-21.
2. No comment/position on elimination of earmarks.
This aligns with the TCPW recommendation for MAP-21.
3. Oppose elimination of Safe-Routes-to-Schools Program.
For MAP-21, TCPW acknowledged the importance of this program to our cities and recommended that this program be included in a specific set-aside. In addition, the League has a history of supporting this program.
4. Oppose the elimination of 10% set-aside for Transportation Enhancements (TE) projects.
This aligns with the TCPW recommendation for MAP-21.
5. Support current STP funding formulas (62.5% to MPOs, 37.5% to state) over formulas in HR 7 (50% to MPOs, 50% to state).
This aligns with the TCPW recommendation for MAP-21.
6. Support the grandfathering in of existing MPOs.
This aligns with the TCPW recommendation for MAP-21.
7. Oppose the authority for Governors to override MPO decisions on National Highway System projects in the event of a dispute.
Follows existing League planning policy that supports guidance from the state, but opposes “granting mandatory review, certification, or other approval authority to another level of government”.
8. Oppose the elimination of dedicated funding for off-system bridge funding.
This aligns with the TCPW recommendation for MAP-21.
9. Oppose elimination of diesel retrofit funding.
For MAP-21, TCPW recommends that diesel retrofit funding be permitted, not mandatory. Following that same line of policy in the reverse situation, the League should support allowing funding to be used for diesel retrofits.
10. Support the increase to the Transportation Infrastructure Finance and Innovation Program.
This aligns with the TCPW recommendation for MAP-21 and follows existing League policy that supports this program.
11. Support expedited project approval and request CEQA/NEPA reciprocity program.

This aligns with the TCPW recommendation for MAP-21.

12. Support the goal to improve the freight movement network and for full inclusion of stakeholders, including local governments.

This aligns with the TCPW recommendation for MAP-21.

13. Oppose the elimination of dedicated funding for public transportation.

With no dedicated source of funding, transit funds will be very vulnerable to annual appropriations fights. Not only will this change result in transit funding competing for the same dollars as other discretionary programs (such as CDBG, COPS, Byrne/JAG), it threatens to degrade service and provide fewer transportation options.

14. Oppose the use of expanded energy programs for future funding.

There are significant discrepancies between the House revenue and the Congressional Budget Office revenue estimates (\$10 billion vs. \$5-7 billion). This revenue source is very unlikely to be approved by the Senate and President, and would place transportation funding at further risk with an unreliable funding source. In addition, the League has existing policy that opposes additional offshore development.

15. Oppose the prohibition of funds from being used for high-speed rail in California.

This provision seems to be the opposite of an earmark. While other states would be able to compete for this funding, California would be prohibited to do so.

February 13, 2012

The Honorable Barbara Boxer
Chairman
Committee on Environment and Public
Works
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable James Inhofe
Ranking Member
Committee on Environment and Public
Works
United States Senate
456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Boxer and Ranking Member Inhofe:

I am writing on behalf of the League of California Cities (League), which represents California's 482 cities, to comment on your legislation, Moving Ahead for Progress in the 21st Century (MAP-21). We applaud the bipartisan nature of the bill, and encourage you to continue to work with all parties to enact a comprehensive transportation bill for our nation.

We join our fellow transportation stakeholders from California in supporting the sustained funding levels for transportation and the focus on existing infrastructure maintenance and preservation. California recently completed a statewide transportation system needs assessment that identified a \$294 billion shortfall over the next ten years. Preservation and maintenance of California's local street and road system alone is facing a \$79 billion shortfall over the next ten years. Now is not the time to reduce funding or rely on unstable revenue sources. In fact, it is time for everyone to have a serious discussion about sustainable funding sources for future transportation investment. We look forward to partnering with you in that discussion over the next two years.

California cities also appreciate your commitment to expanding the use of innovative financing. In particular, the expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program will undoubtedly allow many California projects to proceed that might not otherwise have been able to. With an unemployment rate at 11.3%, ongoing state budget deficits, and cities across the state being forced to put much-needed public infrastructure projects on hold, California is in great need of the job creation and economic investment that would be generated by these projects.

MAP-21 provides a good framework for the nation to use moving forward. However, the League would like to take this opportunity to respectfully offer some suggested modifications in program areas with direct impact to California cities. These recommendations are as follows:

Project Streamlining

California cities have long supported streamlined project delivery and have been pleased by the results of California's involvement in the NEPA delegation pilot program as provided for in SAFETEA-LU. We encourage you to take this program one step further by creating reciprocity for NEPA and the California Environmental Quality Act (CEQA). In California, CEQA provides equal or greater protection than federal requirements, and we are confident that environmental stewardship would continue under what would be a more centralized and efficient system of implementing transportation projects utilizing CEQA independently.

If NEPA/CEQA reciprocity is not an option, please consider adopting the suggested amendments provided by the Orange County Transportation Authority for the NEPA delegation program (see attached). These amendments would eliminate vague language that could potentially undo the gains made in the present language.

Modifications to MPOs

The League must raise concerns with multiple provisions concerning Metropolitan Planning Agencies (MPOs) in MAP-21. More than any other state, California incorporates more local involvement into transportation planning. More than 75 percent of the Surface Transportation Program (STP) funding has been programmed by MPOs and smaller Regional Transportation Planning Agencies (RTPAs) for over 20 years. In addition, California has charged these agencies with additional regulatory and funding responsibilities. The population requirements contained in MAP-21 will not only create uncertainty for California planning processes, but will make it more difficult for local officials to participate in many areas of the state. We respectfully request that the current MPO thresholds be maintained or for a grandfathering clause to be added that would exempt California's MPO and RTPA structure. In addition, the League respectfully requests that you maintain the current STP funding formulas.

Funding for Essential Components of the System

The League must oppose the elimination of dedicated funding for transportation enhancements (TE) and Safe Routes to Schools (SRTS). These programs have long been an integral part of transportation funding, and should remain so. Since 1992, TE projects have added economic and safety value to city transportation systems and worked to reduce local congestion through expansion of bicycle and pedestrian transportation corridors and facilities. Removing the set-aside requirement for TE would discourage states from distributing funding for these much-needed projects. SRTS is also an important program, which benefits the most vulnerable of our transportation system users by providing safe routes for our schoolchildren. Nearly a quarter of traffic related fatalities for children occur while they are walking or bicycling, and there is a serious need for us to continue to improve our sidewalks and crosswalks. Eliminating this program would reduce awareness for the safe transportation needs of this population.

MAP-21 would also eliminate the Highway Bridge Program (HBP), which currently requires states to set-aside 15 percent of their annual apportionment for bridges located on public roads. HBP funding is often the only source for maintenance for bridges in both urban and rural areas. Without eligibility for funding or a dedicated federal funding source, local bridges will continue to deteriorate, threatening public safety, and the efficient movement of goods. Currently, California has 4,428 bridges that have been determined to be structurally deficient or functionally obsolete, 2,776 of which are local bridges. The needs assessment found that the needs for local bridges alone are \$2.6 billion. The importance of this resource should be recognized in the funding structure.

Congestion Mitigation and Air Quality

The League appreciates the need for the Congestion Mitigation and Air Quality (CMAQ) program. This funding is especially important for California cities, many of which have high populations in natural air basins that trap pollutants. However, the League requests the removal from MAP-21 of the requirement that 30 percent of the CMAQ funding for nonattainment and maintenance areas be spent on diesel-powered equipment retrofits. Transportation funding projects to reduce congestion and improve air quality in these areas is already too scarce, and states and regions may be able to identify other funding sources for diesel retrofit needs.

Thank you for this opportunity to provide comments on MAP 21. California's cities are eager to partner with you as you continue work on this important legislation, and we commend you on the tireless work you have done to bring MAP-21 forward. Please let me know if you have any questions or need any additional information, or contact our Washington representatives, Eve M. O'Toole and Dustin McDonald at (202) 419-2505 and (202) 419-2511 respectively.

Sincerely,

A handwritten signature in cursive script that reads "Chris McKenzie". The signature is written in black ink and is positioned above the printed name.

Chris McKenzie
Executive Director

Suggested Amendments for Accelerated Project Delivery

- Early acquisition activities (Section 1302, p 342-6): clarify provisions about lead agency decision-making and Secretaries authority to impose “other conditions.”
- Efficiencies in Contracting (Section 1303): Section (C)(ii)(II) – Secretary may include undefined “appropriate provisions” in alternative construction contracts to achieve the objectives in NEPA. In Section (C)(iii), there is no timeline for Secretary’s approval.
- Assistance to Affected State and Federal Agencies (Section 1305): The requirement to develop a MOU prior to receiving funds could create delay
- Categorical Exclusions for Multimodal Projects (Section 1306):
 - Section (b)(3) requires the component of project covered by the CE to have independent utility, however, in multimodal projects the various sections are usually mutually dependent.
 - Section (c)(5)(B) - It is unclear what can be included within the “extraordinary circumstances” that the Secretary can use to require further analysis before a CE can be used.
 - Section (d)(2) – It does not specify the timeframe for when the cooperating authority must complete their review of the project’s satisfaction of NEPA conditions for categorical exclusion.
- Programmatic Agreements and Additional Categorical Exclusions (Section 1310): If DOT retains discretion whether or not to include terms, how can grantees can insist on having them.? See use of “may” in section (d)(2) and (3).
- Accelerated Decision-making in Environmental Reviews (Section 1311): In section (b) the term “to the maximum extent practicable” is not tight enough to incentivize the completion of incorporation, and the exceptions described in subsections (b)(1) and (b)(2) are broad enough to swallow the entire rule.
- Memoranda of Agency Agreements for Early Coordination (Section 1312): Section (b) creates a loophole to the requirement that the Secretary and relevant federal agencies provide technical assistance (if requested) with the use of the phrase “to the extent practicable and appropriate.”
- Accelerated Decision-making (Section 1313). One of the more unique provisions - may elevate issue resolution issues all the way up to the President, and imposes fines if decisions are not made by appropriate agencies. Breaks new ground and offers hope for a cultural shift in how approvals and permitting is conducted, if implemented properly. However, there are a number of ambiguities, including: (1) use of “may” in the section (4)(A) related to the interim decision allows broad discretion; (2) use of “good cause” in section (5)(A)(iii) to allow extension of time; and (3) use of “approval” in section (6)(B)(ii)(I) and who determines when the application, permit, license or approval is complete



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

February 21, 2012

The Honorable David Dreier
Chairman
House Committee on Rules
H-312 U.S. Capitol Building
Washington, DC 20515

The Honorable Louise Slaughter
Ranking Member
House Committee on Rules
1627 Longworth House Office Building
Washington, DC 20515

The Honorable John Mica
Chairman
House Committee on Transportation
and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Nick Rahall
Ranking Member
House Committee on Transportation
and Infrastructure
2163 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Dreier and Mica and Ranking Members Slaughter and Rahall:

I am writing on behalf of the League of California Cities (League), which represents California's 482 cities, to comment on the proposed transportation reauthorization legislation HR 7 - American Energy and Infrastructure Jobs Act (AEIJA) and urge you to allow several key amendments to be considered during the House's floor consideration of AEIJA and its related financing component HR 3864 - the American Energy and Infrastructure Jobs Financing Act of 2012. These amendments provide a needed balance to the House's SAFETEA-LU reauthorization package, and they would ensure that California cities get the resources and the input that they need to implement critical transportation projects to improve their communities. The full list of these requested amendments is attached.

We join our fellow transportation stakeholders from California in requesting reliable and sustained funding levels for transportation and a focus on existing infrastructure maintenance and preservation. California recently completed a statewide transportation system needs assessment that identified a \$294 billion shortfall over the next ten years. Preservation and maintenance of California's local street and road system alone is facing a \$79 billion shortfall over the next ten years. Now is not the time to reduce funding or rely on unstable revenue sources. In fact, it is time for everyone to have a serious discussion about sustainable funding sources for future transportation investment. We look forward to partnering with you in that discussion in the future. In the interim we would like to share with you our priorities and concerns on the House's surface transportation reauthorization package.

MPO Structure and Funding Levels

The League appreciates the approach taken in AEIJA on the structure of Metropolitan Planning Organizations (MPOs). More than any other state, California incorporates more local involvement into transportation planning. More than 75 percent of the Surface Transportation Program (STP) funding has been programmed by MPOs and smaller Regional Transportation Planning Agencies (RTPAs) for over 20 years. In addition, California has charged these

agencies with additional regulatory and funding responsibilities. However, the League must oppose provisions in AEIJA that would allow a Governor to override MPO decisions on National Highway System projects in the event of a dispute. Local self-governance is the cornerstone of democracy, and this is especially true with transportation planning decisions. It is essential that local governments retain decision-making authority over transportation projects that impact their communities.

- For these reasons the League requests that the Rules Committee permit floor consideration of amendment #25 submitted by Representatives Nadler (NY), Carnahan (MO), Hank Johnson (GA) and Capps (CA), which would strike Sec. 5203(h)(3)(E) (pages 447-448), the provision of the bill that allows a Governor to modify a metropolitan TIP and add a project without the approval or endorsement of the MPO.

In addition, the League respectfully requests that you maintain the current STP funding formulas. As noted above, regions in California have a strong record of successfully programming federal funding for projects of national, state, regional and local significance. The proposed change in funding formulas will result in decreased local decision making opportunities.

- For these reasons we request that you allow floor consideration of amendment #6 offered by Representative Eddie Bernice Johnson (TX) which would maintain the current allocation percentages in the STP program.

Public Transit Funding

The League must oppose the proposed changes to the public transit funding mechanism included in HR 3864. These changes would leave public transit without a dedicated funding source resulting in decreased service and transportation options. We encourage you to restore the Mass Transit Account (MTA) into the Highway Trust Fund, and maintain the current structure for the MTA until a more secure and long-term funding mechanism can be identified. Regarding the funding sources utilized by the House reauthorization package to fund transportation over the life of AEIJA, the League has long supported federal prohibition of offshore development. In addition, there are large discrepancies between the House's revenue projections and the Congressional Budget Office's revenue projections that would be obtained through these energy exploration projects, which make California cities uneasy with the reliability of this funding stream.

- For these reasons we urge you to allow House floor consideration of amendment #27 submitted by Representatives Nadler (NY), LaTourette (OH), Blumenauer (OR), Gibson (NY), Crowley (NY), Turner (NY), Grimm (NY), John Lewis (GA), Fitzpatrick (PA), Norton (DC), Hayworth (NY), Rangel (NY), Lipinski (IL) and Dold (IL). This amendment would restore the dedicated guaranteed funding stream for public transportation programs, as well as eliminate the Alternative Transportation Account, restore the Mass Transit Account of the Highway Trust Fund and its 2.86 cent funding mechanism, and redirect the \$40 billion appropriation in HR 7 to the Highway Trust Fund to ensure there is enough funding for both highways and transit. It would also move CMAQ, Ferries, Puerto Rico and Territorial Highways, and Research back into the Highway Trust Fund consistent with current law.

The League opposes the prohibition of funds from being used for high-speed rail in California. Regardless of your position on high-speed rail, it is wrong for California to be the one state that cannot compete for this funding.

Project Streamlining

California cities have long supported streamlined project delivery, and have been pleased by the results of California's involvement in the NEPA delegation pilot program as provided for in SAFETEA-LU. We encourage you to take this program one step further by creating reciprocity for NEPA and the California Environmental Quality Act (CEQA). In California, CEQA provides equal or greater protection than federal requirements, and we are confident that environmental stewardship would continue under what would be a more centralized and efficient system of implementing transportation projects utilizing CEQA independently.

Funding for Essential Components of the System

The League must oppose the elimination of dedicated funding for transportation enhancements (TE) and Safe Routes to Schools (SRTS). These programs have long been an integral part of transportation funding, and should remain so. Since 1992, TE projects have added economic and safety value to city transportation systems, and worked to reduce local congestion through expansion of bicycle and pedestrian transportation corridors and facilities. Removing the set-aside requirement for TE would discourage states from distributing funding for these much-needed projects. SRTS is also an important program, which benefits the most vulnerable of our transportation system users by providing safe routes for our schoolchildren. Nearly a quarter of traffic related fatalities for children occur while they are walking or bicycling, and there is a serious need for us to continue to improve on sidewalks and crosswalks. Eliminating this program would reduce awareness for the safe transportation needs of this population.

- For these reasons we urge to allow House floor consideration of amendment #103 submitted by Representatives Petri (WI), Blumenauer (OR), LaTourette (OH), Lipinski (IL), Timothy Johnson (IL), and Eddie Bernice Johnson (TX), which would preserve dedicated funding, based on 2009 levels, for TE and SRTS activities in a consolidated Transportation Improvements Program. The amendment would also allow States to choose the source of funds from apportionments, and funds remaining after eligible projects have been funded could be used by the State for any purpose eligible under the STP.

AEIJA would also eliminate the Highway Bridge Program (HBP), which currently requires states to set-aside 15 percent of their annual apportionment for bridges located on public roads. HBP funding is often the only source for maintenance for bridges in both urban and rural areas. Without eligibility for funding or a dedicated federal funding source, local bridges will continue to deteriorate, threatening public safety, and the efficient movement of goods. Currently, California has 4,428 bridges that have been determined to be structurally deficient or functionally obsolete, 2,776 of which are local bridges. The statewide transportation system needs assessment found that the needs for local bridges alone are \$2.6 billion. The importance of this resource should be recognized in the funding structure of the House's surface transportation reauthorization package.

- For these reasons we urge you to allow House floor consideration of amendment #124 submitted by California Representatives Thompson and Capps, which would maintain funding for local off-system bridges by continuing the current law of a 15% set-aside for replacement of these bridges, and holding harmless off-system bridge funding in each state at FY2009 levels.

Congestion Mitigation and Air Quality

The League appreciates the need for the Congestion Mitigation and Air Quality (CMAQ) program. This funding is especially important for California cities, many of which have high populations in natural air basins that trap pollutants. The League requests that local

governments continue to be allowed to use a portion of this funding for diesel-powered equipment retrofits.

Thank you for this opportunity to provide comments on AEIJA. California's cities are eager to partner with you as you continue work on this important legislation. In the spirit of this partnership, the League is asking for your support in voting to approve the list of attached amendments, which are expected to be offered to AEIJA during floor consideration when the House returns from recess on February 27. Please let me know if you have any questions or need any additional information, or contact our Washington representatives, Eve M. O'Toole and Dustin McDonald at (202) 419-2505 and (202) 419-2511 respectively.

Sincerely,



Chris McKenzie
Executive Director

Cc: The Honorable Representative Mike Thompson
The Honorable Representative Wally Herger
The Honorable Representative Daniel Lungren
The Honorable Representative Tom McClintock
The Honorable Representative Doris Matsui
The Honorable Representative Lynn Woolsey
The Honorable Representative George Miller
The Honorable Representative Nancy Pelosi
The Honorable Representative Barbara Lee
The Honorable Representative John Garamendi
The Honorable Representative Jerry McNerney
The Honorable Representative Jackie Speier
The Honorable Representative Pete Stark
The Honorable Representative Anna Eshoo
The Honorable Representative Mike Honda
The Honorable Representative Zoe Lofgren
The Honorable Representative Sam Farr
The Honorable Representative Denis Cardoza
The Honorable Representative Jeff Denham
The Honorable Representative Jim Costa
The Honorable Representative Devin Nunes
The Honorable Representative Kevin McCarthy
The Honorable Representative Lois Caps
The Honorable Representative Elton Gallegly
The Honorable Representative Howard "Buck" McKeon
The Honorable Representative Brad Sherman
The Honorable Representative Howard Berman
The Honorable Representative Adam Schiff
The Honorable Representative Henry Waxman

The Honorable Representative Xavier Becerra
The Honorable Representative Judy Chu
The Honorable Representative Karen Bass
The Honorable Representative Lucille Roybal-Allard
The Honorable Representative Maxine Waters
The Honorable Representative Janice Hahn
The Honorable Representative Laura Richardson
The Honorable Representative Grace Napolitano
The Honorable Representative Linda Sanchez
The Honorable Representative Edward Royce
The Honorable Representative Jerry Lewis
The Honorable Representative Gary Miller
The Honorable Representative Joe Baca
The Honorable Representative Ken Calvert
The Honorable Representative Mary Bono Mack
The Honorable Representative Dana Rohrabacher
The Honorable Representative Loretta Sanchez
The Honorable Representative John Campbell
The Honorable Representative Darrel Issa
The Honorable Representative Brian Bilbray
The Honorable Representative Bob Filner
The Honorable Representative Duncan Hunter
The Honorable Representative Susan Davis

| LEAGUE OF CALIFORNIA CITIES ENDORSED AMENDMENTS | | |
|--|---------------|--|
| Submitted By | Number | Description |
| Johnson, Eddie Bernice (TX) | 6 | Would maintain the current allocation percentages in the Surface Transportation Program. |
| Nadler (NY), Carnahan (MO), Johnson, Hank (GA), Capps (CA) | 25 | Would strike Sec. 5203(h)(3)(E) (pages 447-448), the provision of the bill that allows a Governor to modify a metropolitan TIP and add a project without the approval or endorsement of the Metropolitan Planning Organization (MPO). |
| Nadler (NY), LaTourette (OH), Blumenauer (OR), Gibson (NY), Crowley (NY), Turner (NY), Grimm (NY), Lewis, John (GA), Fitzpatrick (PA), Norton (DC), Hayworth (NY), Rangel (NY), Lipinski (IL), Dold (IL) | 27 | Would restore the dedicated guaranteed funding stream for public transportation programs. Would eliminate the Alternative Transportation Account, restore the Mass Transit Account of the Highway Trust Fund and its 2.86 cent funding mechanism, and redirect the \$40 billion appropriation in HR 7 to the Highway Trust Fund to ensure there is enough funding for both highways and transit. It would also move CMAQ, Ferries, Puerto Rico and Territorial Highways, and Research back into the Highway Trust Fund consistent with current law. |
| Petri (WI), Blumenauer (OR), LaTourette (OH), Lipinski (IL), Johnson, Timothy (IL), Johnson, Eddie Bernice (TX) | 103 | Would preserve dedicated funding, based on 2009 levels, for transportation enhancement and safe routes to school activities in a consolidated Transportation Improvements Program. Would allow States to choose the source of funds from apportionments, and funds remaining after eligible projects have been funded could be used by the State for any purpose eligible under the Surface Transportation Program. Would amend the definition of transportation enhancement to remove transportation museums and other references, and state coordinators and a competitively selected clearinghouse would be funded. |
| Thompson, Mike (CA), Capps (CA) | 124 | Would maintain funding for local Off-System bridges by continuing the current law of a 15% set-aside for replacement of these bridges, and holding harmless off-system bridge funding in each state at FY2009 levels. |