

2020 FEDERAL LEGISLATIVE PROGRAM

The California Transit Association's 2020 Federal Legislative Program is an integral part of making our vision a reality, and is part and parcel of our mission to further the interests of public transportation as defined in our *Strategic Plan*.

Vision Statement

This statement contains our long-range vision for the transit industry and portrays the desired future the Association seeks to achieve. Our Association's vision is to have:

“Fully funded, efficient, and effective public transit systems operating in a balanced transportation network.”

Mission Statement

To attain that vision we carry out our mission to:

“Support the needs of California’s public transit systems through advocacy and education.”

Advocacy

The goal of the advocacy effort contained in our *Strategic Plan* is to:

“Influence state and federal decision makers to enact policies and funding solutions supporting, expanding, developing and advancing public transit.”

The objectives of our advocacy effort are aimed at:

- Ensuring that existing transit funds are protected.
- Securing new funds for transit.
- Pursuing laws and regulations supporting transit and defeating those impeding transit's ability to meet the public's mobility needs.
- Using public and private partnerships to successfully influence favorable policy outcomes.
- Enhancing public awareness of transit and its daily positive impact on the lives of all Californians.

2020 FEDERAL LEGISLATIVE PROGRAM – SUMMARY OF NEW / ACTION ITEMS

The following summarizes the specific and highest priority policy goals the California Transit Association (Association) is pursuing in 2020:

- **Surface Transportation Reauthorization:** The Association will continue to engage Congress, the Administration, and our state and national partners, among others, to ensure that the next federal surface transportation reauthorization bill grows California's transit funding and supports the maintenance and development of a fast and efficient transit network in California.
- **Transportation Appropriations:** The Association will continue to support a minimum appropriation level for federal surface transportation programs equal to, at least, the authorized spending levels in the FAST Act, and advocate for the highest possible levels of funding for individual highway, rail, project finance, innovation, safety and transit programs.
- **FAST Act Implementation:** The Association will continue to engage the Administration and Congress to ensure implementation of the FAST Act advantages transit in all possible programs. Among our top priorities in this area is ensuring that the Administration continues to execute the Capital Investment Grants program, as intended by Congress.
- **Public Employees' Pension Reform Act of 2013:** The Association will continue to work with Congress and the Administration on issues related to 49 U.S.C. Section 5333(b) (formerly Section 13(c) of the Urban Mass Transportation Act of 1964) to ensure USDOL's compliance with the U.S. District Court's ruling minimizes local financial impacts to transit agencies.
- **Transit Pass Tax Benefits:** The Association will continue to urge Congress to maintain the transit pass tax benefit and will advocate for retaining permanent equal federal income tax treatment for employer-provided transit passes, vanpool and carpool, benefits and parking spaces.
- **Alternative Fuels Tax Credit:** The Association will continue to support the permanent reinstatement of the Alternative Fuel Tax Credit and will continue to support extending the credit to include electricity as an eligible alternative transportation fuel.
- **Buy America Requirements:** The Association will continue to request that Congress and the United States Department of Transportation create a unified system for complying and requesting waivers for projects receiving several types of USDOT funding.
- **New Mobility:** The Association will continue to engage state and federal decisionmakers to ensure the priorities of our transit agency and original equipment manufacturer members are included in federal policies related to mobility on demand, automated and connected vehicles and infrastructure.

2020 FEDERAL LEGISLATIVE PROGRAM – ALL ACTION ITEMS

The following summarizes all policy goals the Association will actively pursue in 2020. These are a mix of our existing goals and new items added for 2020.

OBJECTIVE 1: Existing transit funds are protected.

A. Advocate for Transit Funding in Federal Appropriations

In general, the Association's advocacy efforts related to the Fiscal Year (FY) 2020 and FY 2021 appropriations bills will emphasize the following:

- Support, at a minimum, appropriations level for all transit, passenger rail and highway formula programs consistent with FAST Act-authorized spending levels. Support efforts to increase funding for FTA formula programs that benefit California transit agencies above the authorized spending levels.
- Support a minimum appropriations level for the Capital Investment Grants (CIG) program of at least \$2.3 billion annually, equal to the authorized spending level in the FAST Act. Funding for the CIG program must support allocations to new projects in the CIG pipeline as well as additional funding for the Expedited Project Delivery for Capital Investment Grants Pilot Program. Additionally, we support continued policy direction that the Administration execute the CIG program as intended by Congress, including prohibiting FTA from adopting new local match policies outside of those directed by Congress.
- Support maintaining funding for Amtrak's long-distance train service.
- Support maintaining discretionary transportation infrastructure funding and support efforts to ensure California receives a "fair share" of funding from BUILD and other competitive grant programs.
- Support maintaining or increasing funding for public transit security programs under the Department of Homeland Security, including: the Intercity Passenger Rail Program, the Transit Security Grant Program and the Intercity Bus Security Grant Program.
- Support blocking the application of the Rostenkowski Test.

B. Advocate for Restoration of Highway Trust Fund Solvency and Mitigation of Near-Term Cuts

Improved fuel efficiency for cars and trucks and inflation have eroded the Highway Trust Fund (HTF), threatening the main funding source for federal transportation programs. The Association supports an increase in funding to the HTF, so that it remains solvent and capable of fully supporting transit programs. Revenue sources for the HTF should be indexed to keep up with inflation. If no action is taken to address HTF solvency, the Association will urge Congress to:

- Ensure that the impending HTF insolvency does not result in federal transportation funding cuts. Support a long-term solution to restore HTF solvency. Oppose any efforts to eliminate the HTF's role in funding mass transportation projects.
- Repeal the FAST Act-mandated contract authority rescission that is to take place on July 1, 2020. This could create significant impacts for Congestion Mitigation and Air Quality (CMAQ) and Surface Transportation Block Grant (STBG) funding, among other sources.

OBJECTIVE 2: New transit funds are secured.

A. Advocate for Robust Transit Funding in the Federal Surface Transportation Reauthorization Bill

The FAST Act is set to expire on September 30, 2020, unless extended. To ensure that the next federal surface transportation reauthorization advantages California's public transit agencies, the Association will continue to engage with the Administration, Congress, and our state and national partners, among others, to advocate for the following priorities:

Long-Term Reauthorization, HTF Solvency and Innovative Financing Tools

- Seek a long-term (six-year) authorization at funding levels of no less than the FAST Act baseline at year five plus inflation. This will provide transit agencies and state and local governments with the stability needed to plan and implement multi-year transportation projects, including transit capital projects.
- Support restoring Highway Trust Fund (HTF) solvency to ensure that the HTF can continue to fully fund federal transit programs at, at a minimum, baseline spending levels; raise new revenues to support long-term solvency. Options include raising the gas tax and exploring other revenue sources that can be devoted to transit programs. New revenues should be indexed to inflation.
- Support ensuring federal transit programs funded from the Mass Transit Account continue to receive at least 20% of the HTF's federal surface transportation funding. Additionally, maintain a strong federal role in a multimodal national surface transportation system and oppose any efforts to reduce or eliminate federal funding for transit from the General Fund or HTF.
- Expand financing tools, including America Fast Forward Transportation Bonds (AFF Transportation Bonds) and Transportation Infrastructure Finance and Innovation Act (TIFIA) as a means to boost investment in America's transportation infrastructure. Consistent with this, support efforts to streamline the TIFIA process and expedite the federal review process.
- Support the reinstatement of Advance Refunding of Bonds, allowing state and local governments to realize savings on debt service.
- Support flexibility in the Railroad Rehabilitation and Improvement Financing program to allow for easier utilization by transit agencies.

Increased Funding for Core Federal Transit Programs and Transit-Eligible Highway Programs

- Support increasing funding for the following programs: Section 5307 and Section 5311 Urbanized Area and Non-Urbanized Area formula; Section 5310 for the Enhanced Mobility of Seniors and Individuals with Disabilities; Section 5337 State of Good Repair; Section 5339 Bus and Bus Facilities; Section 5309 Capital Investment Grants; STBG and CMAQ.
- Support goods movement grant programs that help agencies reduce congestion to benefit transit operations.

Improved Project Delivery, Increased Certainty

- Support maintaining the federal and local match for transportation projects so that the required local match for projects does not increase and permit a higher local match at the discretion of state or local grantees.

- Support reversing FTA's policy of excluding bus service provided in high-occupancy toll (HOT) lanes from the apportionment formula for the Section 5337 "High Intensity Motorbus" (HIMB) funding program. This policy results in reduced funding for regions across California as high-occupancy vehicle (HOV) lanes are converted to HOT lanes.
- Support the current flexibility in the State of Good Repair Program. Flexibility will allow multi-modal public transit agencies that receive funding under both the High-Intensity Fixed Guideway and High-Intensity Motorbus Elements to apply their formula shares toward their highest-priority state of good repair needs.
- Support initiatives to develop the workforce necessary to successfully deliver transit projects and services, including flexibility of federal funds for training purposes and the most expedited grant-making process possible for those funds, as well as continued and expanded funding for FTA's Section 5314 program and of regional training consortium programs which provide advanced transit specific training through local community colleges and similar educational institutions.
- Support one simplified *Buy America* compliance path for all surface transportation projects (highway and transit) funded by the U.S. Department of Transportation. Additionally, the Association will request that Congress and the USDOT create a unified system for complying and requesting waivers for projects receiving several types of USDOT funding. Currently, the provisions are separate and have given rise to separate regulatory enforcement schemes for highways, rail and transit projects.

Climate Change and Resiliency

- Support additional federal transportation funding for strategies that reduce greenhouse gas emissions and support ensuring any additional clean air mandates on transit systems are tied to funding commensurate to paying those costs.
- Support investing in a competitive grant program for nationally- and regionally-significant mega-projects that improve mobility across all modes, provide congestion relief, improve safety and build resiliency against extreme weather and climate change.
- Support new funding and/or financing mechanisms, including preferential scoring for California transit agencies in the Low and No-Emission Grant Program, to support zero-emission bus deployment.

B. Seek New Funding from Any Proposed Federal Infrastructure Initiative.

The Association will continue to engage the Administration, California's Congressional delegation and key policy and fiscal committees to ensure that any new federal infrastructure initiative provides new federal funding to public transit projects in addition to new financing options. Furthermore, will oppose any efforts to penalize California for being a self-help state and will actively support any efforts that reward self-help states, counties, cities and other forms of local government with additional discretionary funding. Finally, we will oppose any efforts that add financial burdens on the operation of public transportation or any action to devolve federal programs to the states.

The Association will call on Congress to direct new funding to surface transportation programs authorized under the FAST Act and to invest in nationally significant infrastructure projects.

OBJECTIVE 3: Laws and regulations supporting transit are enacted and those impeding transit's ability to meet the public's mobility needs are defeated.

A. Ensure Implementation of the FAST Act Maximizes Support for Transit in all Possible Programs.

The FAST Act continues implementation of important policy and structural changes to federal surface transportation programs initiated in MAP-21 and intended to improve mobility. These changes will present a host of administrative and implementation challenges that will be addressed through guidance and rulemakings.

The Association will continue to advance its priorities in the following area affected by the FAST Act:

State of Good Repair: Under the Transit Asset Management (TAM) Rule, public transit agencies that receive federal funding are required to develop an inventory of their capital assets, and to report to FTA on the condition of their systems on a regular basis. The Association will continue to monitor implementation of the TAM rule to ensure that it is not onerous or costly for public transit agencies to achieve compliance.

Capital Investment Grants Program: The FAST Act included several structural changes to the CIG Program to help FTA review projects more quickly. In addition, the legislation allows "core capacity projects" to increase the capacity of existing rail transit systems without building new lines or extensions to be eligible for funding. The Association will work to ensure that any FTA guidance or rulemakings are consistent with the intent of Congress to streamline the process to the maximum extent possible.

Additionally, the Association will continue to support Congressional actions to compel the implementation of the CIG Program. As part of this work, the Association will advocate for USDOT to continue funding projects consistent with appropriations made by Congress. This will include such tools as Letters of No Prejudice, and any other necessary mechanisms to ensure critical projects remain on schedule.

Congestion Mitigation and Air Quality Improvement Program (CMAQ): The Association will work to ensure that CMAQ funds continue to be eligible for operating expenses of a new transit line or service for 3 to 5 years. We will oppose any changes in CMAQ eligibility requirements.

Public Transit Safety: MAP-21 granted authority to the Transportation Secretary to create a national safety plan for all modes of public transit. This program was maintained by the FAST Act. As a condition of receiving federal money, public transit agencies must develop comprehensive safety plans based on set criteria.

The Association will work to ensure that FTA implements public transit safety provisions consistent with the following principles:

- Regulations regarding public transit safety should be efficient, reasonable, as free as possible of bureaucratic burden, and not put a financial burden on operations.
- To reduce regulatory burden, any new federal safety regulations should accept the safety programs of public transit agencies that have developed their safety plans/activities as members of large risk pools (e.g. CalTIP).
- Effective safety oversight of public transit requires a collaborative effort between federal, state and local agency partners. Any new federal safety standards should build on consensus-based industry standards and be further developed with input from public transit agencies.

- Public transit agencies should be allowed adequate time to be brought into compliance without penalty.

Any costs/mandates associated with public safety should be compensated by the federal government over and above existing programs where appropriate. Funding should be provided from new sources to assist with additional compliance burdens.

Less Administrative Burden for Smaller Operators: Our Association supports greater flexibility and less administrative burden for transit operators in small urban areas and small operators running peak service of 100 buses or less in large urban zones, similar to existing language in the recently revised Title VI and Section 5307.

Public Transportation Innovation: The FAST Act consolidated transit research under FTA's Public Transportation Innovation Program and authorized the program to fund demonstration, deployment and evaluation research projects. The Association will work to ensure that the research priorities advanced by this funding benefit public transit in California as well as increased funding.

Procurement: The FAST Act changed purchasing procedures to offer more purchasing options for public transportation systems of varying sizes. Under the act, multiple states and providers may purchase capital assets through cooperative interstate procurements. The FAST Act also created a pilot program to allow nonprofit organizations to enter into cooperative procurement contracts. Under the new procurement procedures, transit agencies can lease equipment or facilities such as low- or no-emission components. Finally, the FAST Act established a Joint Procurement Clearinghouse to allow grantees to co-purchase rolling stock within a system that helps them identify procurement partners.

The Association will provide feedback to the FTA to ensure that these purchasing procedures are developed in ways that maximize their viability for public transit agencies in California.

B. Seek Continued Support from Congress on California's Public Employees' Pension Reform Act.

In 2019, the Amalgamated Transit Union (ATU) once again objected to the certification of federal transit grants, owed to California transit agencies, by the United States Department of Labor (USDOL) by claiming that California's Public Employees' Pension Reform Act (PEPRA) of 2013 precludes transit agencies from continuing the collective bargaining rights of their employees under 49 U.S.C. Section 5333(b) [commonly referred to as "Section 13(c)"] of the federal Urban Mass Transportation Act of 1964.

The ATU's objections rested entirely on an interpretation of the relevance of Section 13(c) to implementation of PEPRA that, as detailed below, has been duly and exhaustively considered and rejected in definitive rulings of the U.S. District Court, Eastern District of California, in *State of California, et al. v. Dep't of Labor, et al.* These rulings, captured in the judge's January 24, 2018 order, found that "the State has prevailed on all issues" – which include the identical assertions about the alleged conflict between PEPRA and 13(c) that the ATU has again levied in the case of these 2019 Federal Transit Administration (FTA) grants – and on that basis the Court "enjoin[ed] [US]DOL from relying on PEPRA, as currently enacted, to deny the State's application for funding under either §13(c)(1) or §13(c)(2)..."

These objections were rejected by USDOL's Director of the Office of Labor-Management Standards in a letter dated June 14, 2019, through reference to the Court's ruling. Later that month, USDOL directly communicated to the Association that they will continue to certify California's transit grants unless they receive a court injunction barring them from doing so and subsequently acted on this commitment by rejecting additional objections from ATU. USDOL also expressed interest in federal legislation that would limit the department's role in the grant certification process.

Subsequently, ATU filed a lawsuit in the United States District Court for the District of Columbia calling for declaratory and injunctive relief. ATU contested USDOL's certification in 2019 of federal grants for California transit agencies over ATU's PEPRA-based objections, arguing that USDOL's actions are "*contrary to law and in excess of USDOL's statutory authority.*"

The Association will continue to monitor objections to the certification of federal transit grants for California as well as the status of the litigation they filed in response to USDOL's certification of said grants. The Association will also work through its newly-established Subcommittee on PEPRA 13(c) to consider options and strategies for permanently addressing this long-standing issue.

C. Ensure the Maintenance of Transit Pass Tax Benefits.

The transit pass tax benefit provides permanent equal federal income tax treatment for employer-provided transit passes, vanpool and carpool, parking spaces. This benefit encourages transit ridership, and creates parity between benefits provided to drivers and transit riders, by allowing employees to exclude the value of a transit pass (up to \$265) from their wages.

The Association supports maintaining the transit pass tax benefit and will advocate for retaining permanent equal federal income tax treatment for employer-provided transit passes, vanpool and carpool, benefits and parking spaces.

D. Seek the Reinstatement and Expansion of the Alternative Fuel Tax Credit.

The federal excise tax credit for alternative fuels and alternative fueling infrastructure expired on December 31, 2017. This tax credit is an important source of revenue for many public transportation agencies that utilize natural gas for a portion or all of their fleet fueling needs and supports reduction of greenhouse gas emissions.

The Association supports a permanent reinstatement of the Alternative Fuel Tax Credit and will continue to evaluate options for extending the credit to include electricity as an eligible alternative transportation fuel.

The Association also supports the extending the credit for alternative fuel vehicle refueling property and legislative efforts to increase access to availability of this credit for fuel and charging infrastructure and batteries used to support electric and hybrid-electric buses.

E. Seek Guaranteed Railroad Access for Public Transit Agencies.

The Association supports granting to public transit operators the same guaranteed access to the freight railroad network that currently exists for Amtrak. The Association also supports establishing a mechanism within the STB or some other appropriate federal entity to resolve disputes between public transit operators and the private railroads on freight railroad access issues.

F. Amtrak.

The Association supports investment in Amtrak. At the same time, full consideration must be given to the impact that any legislation regarding Amtrak's institutional structure may have on commuter rail services and on public transportation services generally. With the implementation of PRIIA Section 209 Amtrak pricing policy, states now are supporting Amtrak intercity passenger rail (IPR) routes of 750 miles or less and represent nearly 50% of Amtrak's total annual ridership and it is therefore imperative that at least one director on the Amtrak Board represent the interests of these state IPR services.

G. Seek Additional Funding for Positive Train Control.

Recognizing that there are financial barriers to timely Positive Train Control implementation by some railroads, the Association supports increased funding for PTC implementation and operation.

H. Oppose Retroactive Application of Rail Liability Cap.

The Association opposes the retroactive application of any rail liability cap. Any caps must take into consideration the resources of transit agencies, and state & local governments.

I. HOT Lanes.

FTA excludes bus service provided in high-occupancy toll (HOT) lanes from the apportionment formula for the Section 5337 “High Intensity Motorbus” (HIMB) funding program, resulting in reduced funding for regions across California as high-occupancy vehicle (HOV) lanes are converted to HOT lanes.

The Association supports statutorily revising Section 5337 in the FAST Act to specify that HOT lane service counts in the Section 5337 apportionment formula.

K. Seek Flexibility in Spare Ratio Requirements.

FTA regulations require that transit agencies maintain a transit vehicle fleet with a spare ratio of no more than 20 percent of the number of vehicles operated in maximum fixed-route service to utilize FTA 5307 formula funds for vehicle purchases. Some transit agencies, in seeking to implement zero-emission transit buses, have found that due to the range limitations of this nascent technology, they must purchase additional buses – possibly in excess of the spare ratio for transit buses – to maintain service levels to their community. In doing so, these transit agencies run the risk of jeopardizing their access to crucial FTA 5307 formula funding.

The Association will work with the FTA or, if necessary, Congress to ensure flexibility in the application of its spare ratio requirements to zero-emission transit buses.

L. Engage on Issues related to Automated Vehicles.

On October 4, 2018, the Department of Transportation, under President Trump, released an update to federal automated vehicle policy (known as “AV 3.0”), revising guidance previously released by both the Obama and Trump Administrations. This revised policy expands the scope to all surface on-road transportation systems and was developed through input from a diverse set of stakeholder engagements. This policy is structured around three key areas: advancing multi-modal safety; reducing policy uncertainty; and, outline a process for working with USDOT. In recent years, Congress has debated bills, specific to vehicles under 10,000 GVWR, for establishing a federal framework for AV testing and on-road safety. While these bills did not advance, Congress continues to engage the stakeholder community on proposed legislative language, which could be ported into new bills.

The Association will engage USDOT, the National Highway Traffic Safety Administration, California’s Congressional delegation and key members of the California Governor’s Administration to ensure the priorities of our transit agency and original equipment manufacturer members are included in final USDOT policy and the state’s policy framework for automated vehicles. Additionally, the Association will oppose legislative and/or regulatory efforts that would undermine the authority of states and localities to enact their own testing and deployment requirements.

M. Monitor Prohibition of Federal Funds for Rolling Stock.

Subject to the approval of the Executive Committee and Federal Legislative Committee, the Association may choose to communicate the negative impact on transit operations of any prohibition on the use of FTA funding for the purchase of transit assets from specific manufacturers.

OBJECTIVE 4: Public and private partnerships are used to successfully influence favorable policy outcomes.

The Association will work to ensure that transit agencies are eligible to utilize all innovative funding and finance programs and tax incentives that support and expand opportunities for private investment and other forms of Public-Private Partnerships in transit and mobility initiatives. The Association will also work to build new, mutually beneficial relationships between the Association, its members, and public & private partners and to enhance existing relationships that support the Association's goals.

OBJECTIVE 5: Enhanced public awareness of transit and its daily positive impact on the lives of all Californians.

The Association will provide to decision-makers and partner organizations available polling data and other information that indicates increased public support for transit compared to previous years, and, work to increase the number of iTransit program followers and to engage them on important policy issues.