

2022 FEDERAL LEGISLATIVE PROGRAM

The California Transit Association's 2022 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.

2022 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 2022:

- **COVID-19 Relief:** The Association will continue to monitor the disbursement of COVID-19 relief funds and engage Congress and the Administration, as necessary, to address any barriers related to access and use of these funds.
- **Surface Transportation Reauthorization:** If necessary to address inaction in 2021, 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, authorized spending levels, and advocate for the highest possible levels of funding for individual highway, rail, project finance, innovation, safety and transit programs.
- **Public Employees' Pension Reform Act of 2013:** The Association will continue to monitor litigation related to the implementation of the Public Employees' Pension Reform Act of 2013 by California's transit agencies; and may support transferring the transit grant certification process under 49 U.S.C. Section 5333(b) [commonly referred to as "Section 13(c)"] of the federal Urban Mass Transportation Act of 1964 from the United States Department of Labor to the United States Department of Transportation, if necessary.
- **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:** If necessary to address inaction in 2021, 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 and hydrogen, used in transit vehicles, as an eligible alternative transportation fuel.
- **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.

2022 FEDERAL LEGISLATIVE PROGRAM – ALL ACTION ITEMS

The following summarizes all policy goals the Association will actively pursue in 2022. These are a mix of our existing goals and new items added for 2022.

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 Years (FYs) 2022 and 2023 appropriations bills will emphasize the following:

- Support, at a minimum, appropriations level for all transit, passenger rail and highway formula programs consistent with authorized spending levels. Support efforts to increase funding for Federal Transit Administration (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 equal to the authorized spending level. Funding for the CIG program must support allocations to existing projects and new projects in the CIG pipeline as well as additional funding for the Expedited Project Delivery for Capital Investment Grants Pilot Program and support increasing the federal share to 35%. 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 train service.
- Support maintaining discretionary transportation infrastructure funding and support efforts to ensure California receives a "fair share" of funding from INFRA 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.

Whenever a continuing resolution is necessary, the Association will support including language in it directing FTA to immediately issue grants to transit agencies no matter the duration of the measure.

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

The Association supports restoring Highway Trust Fund (HTF), so that it can continue to fully fund federal transit programs at a baseline spending levels, at a minimum. Options include raising the gas tax and exploring other revenue sources that can be devoted to 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 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. 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.

OBJECTIVE 2: New transit funds are secured.

A. Monitor disbursement of federal COVID-19 relief funding and engage Congress and the Administration, as necessary, to address barriers that may arise.

The COVID-19 pandemic dramatically reduced state and local transit revenue sources and increased the cost of transit operations, threatening the viability of public transit in the short- and long-term. In response, the Association mobilized to help secure approximately \$10 billion in emergency funding through the Coronavirus Aid, Relief, and Economic Security Act, the Coronavirus Response and Relief Supplemental Appropriations Act of 2021, and the American Rescue Plan for California transit agencies. The Association will continue to monitor the disbursement of COVID-19 relief funds and engage Congress and the Administration, as necessary, to address any barriers related to access and use of these funds.

B. Advocate for Robust Transit Funding in the Federal Surface Transportation Reauthorization Bill and Infrastructure Bill

In 2021, the Association mobilized to support the enactment of a new federal surface transportation reauthorization bill by September 30, 2021 as well as an infrastructure bill, which together would significantly increase funding for transit and rail programs. Unfortunately, as of the drafting of this Program, Congress has not passed such legislation – the Bipartisan Infrastructure Investment and Jobs Act (IIJA) – and has instead approved a short-term extension of the FAST Act carrying authorized funding levels forward through October 31, 2021. Similarly, Congress has not acted to approve the Build Back Better Act (BBBA), the infrastructure bill.

If Congress does not act on a federal surface transportation reauthorization bill and infrastructure bill in 2021, the Association will continue to engage with Congress, the Administration, and our state and national partners, among others, to advocate for the following priorities:

Long-Term Reauthorization and Innovative Financing Tools

- Seek a long-term authorization at funding levels of no less than the funding levels proposed by the IIJA.
- Expand financing tools, including America Fast Forward Transportation Bonds (AFF Transportation Bonds) and Transportation Infrastructure Finance and Innovation Act (TIFIA), including the Rural Project Initiative, 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 the tax exempt status of Advance Refunding of Bonds, as proposed by the BBBA, 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 core transit and rail programs at funding levels of no less than the funding levels proposed by the IIJA.

- Support increasing funding for the Capital Investment Grant Program at funding levels of no less than the funding levels proposed by the IIJA. This must support projects in the CIG pipeline and ensure that projects that have already received a Full Funding Grant Agreement can be delivered, as envisioned by the United States Department of Transportation.
- Support permitting transit agencies to become direct subrecipients of Section 5311 Non-Urbanized Area formula and Section 5310 for the Enhanced Mobility of Seniors and Individuals with Disabilities.
- Support goods movement grant programs that help agencies reduce congestion to benefit transit operations.

Improved Project Delivery, Increased Certainty, Transportation Access

- 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, if necessary, transferring the transit grant certification process under 49 U.S.C. Section 5333(b) [commonly referred to as “Section 13(c)”] of the federal Urban Mass Transportation Act of 1964 from the United States Department of Labor to the United States Department of Transportation.
- Review and determine whether to 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 at funding levels of no less than the funding levels proposed by the IIJA 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.
- Support new funding for the Affordable Housing Access Program at funding levels of no less than the funding levels proposed by the Build Back Better Act. This funding should support access to affordable housing and jobs and to enhance mobility for low-income individuals and residents of disadvantaged or persistent poverty communities, including through the deployment of zero-emission technologies. More specifically, this funding would support the establishment of new transit routes; the expansion of service areas; improved frequency on existing routes; zero-emission buses and infrastructure deployment, related to the establishment of new transit routes, the expansion of service areas, and improved frequency on existing routes; the provision of fare-

free and reduced-fare transit service; construction of, or state of good repair for, transit facilities; research and workforce development activities; route planning; and, projects to improve accessibility.

Climate Change and Resiliency

- Support increased funding for Low and No-Emission Grant Program at funding levels of no less than the funding levels proposed by the IIJA as well as manufacturer tax credits that reduce the upfront cost of zero-emission bus purchases, as included in the BBBA. Continue to advocate to changes to the Low-No program that will provide preferential scoring to California transit agencies.
- Support new funding for the Community Climate Incentive Grant Program at funding levels of no less than the funding levels proposed by the BBBA. This funding should provide new funding to reduce surface transportation-related greenhouse gas emissions, through investment in projects that provide zero-emission transportation options and that reduce dependence on single-occupancy vehicles

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. Continue to Monitor PEPPRA 13(c)-Related Litigation

The Association will continue to monitor objections to the certification of federal transit grants for California as well as the status of the litigation filed by the Amalgamated Transit Union in response to the United States Department of Labor's certification of transit grants over Public Employees' Pension Reform Act of 2013-related objections. The Association may support transferring the transit grant certification process under 49 U.S.C. Section 5333(b) [commonly referred to as "Section 13(c)"] of the federal Urban Mass Transportation Act of 1964 from the United States Department of Labor to the United States Department of Transportation, if necessary.

B. 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.

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

The Alternative Fuels 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 reinstatement of the Alternative Fuel Tax Credit through at least 2031, as proposed by the BBBA, and will continue to evaluate options for extending the credit to include electricity and hydrogen, used in transit vehicles, 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.

D. 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.

E. 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.

F. Seek Additional Funding for Positive Train Control.

Recognizing that Positive Train Control is an unfunded mandate and there are significant annual additional costs for maintaining PTC, the Association supports increased funding for PTC maintenance, and operations.

G. Support Low-Cost Solutions for Increasing Rail Safety.

The Association supports securing authorization to implement low-cost solutions, such as dynamic envelope painting, to increase safety at at-grade rail grade crossings.

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. 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.

J. 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.

K. 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.

L. Pursue the changes to statutes & regulations and funding necessary to implement the recommendations of the Association's *Transit is Essential: Recommendations for the Future of Transit* report.

In July 2020, the Association published its *Transit is Essential: Recommendations for the Future of Transit*, detailing 17 recommendations for improving the safety, efficiency, and viability of transit operations during the COVID-19 pandemic and which aim to establish a more reliable and resilient public transportation network in the future that expands access to mobility and economic opportunity to all Californians.

The Association will pursue changes to statutes & regulation and, to the extent necessary, funding to implement the recommendations contained in the report.

M. Continue to identify and pursue, as necessary, statutory and regulatory relief measures necessary to address the impacts of the COVID-19 pandemic on transit operations.

The Association will continue to work with the State Legislative Committee, Federal Legislative Committee, Operations Committee and COVID-19 Transit Crisis Relief Task Force to identify and pursue, as necessary, statutory and regulatory relief measures necessary to reduce costs, relieve administrative burden and otherwise address the impacts of the COVID-19 pandemic on transit operations.

N. Monitor and support efforts to advance racial justice and transportation equity through federal transportation policy.

The Association will implement the recommendations of the Actions for a More Equitable, Inclusive and Diverse Association report by reviewing and engaging on federal transportation policy intended to advance racial and social justice, transportation equity, and workforce equity. Such policy may relate to issues, including but not limited to, transit access and affordability, policing, workforce development and training, and zero-emission technologies.

O. Support existing and new funding and financial tools to support transit-oriented development and the construction of housing near public transit.

The Association supports existing and new federal funding and financial tools to encourage transit-oriented development projects and housing near public transit, including for affordable housing projects. The Association also supports the streamlining of existing programs to better facilitate the construction of such projects.

P. The Association will work with Congress and the Administration to advocate for reforms to the NEPA process that advantage public transit, rail, ferry, bicycle, pedestrian, and TOD projects.

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 engage stakeholders and riders on important policy issues.