

2018 FEDERAL LEGISLATIVE PROGRAM

The California Transit Association's 2018 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.

2018 FEDERAL LEGISLATIVE PROGRAM – SUMMARY OF NEW / ACTION ITEMS

The following summarizes the specific and highest priority policy goals the California Transit Association is pursuing in 2018:

- **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 programs within the highway, rail and transit titles of the FAST Act.
- **Federal Infrastructure Initiative:** The Association will continue to engage the Trump Administration, California’s Congressional delegation and key policy and fiscal committees to ensure that this initiative provides new federal funding to public transit projects in addition to new financing options.
- **FAST Act Implementation:** The Association will continue to engage Congress and the Federal Transit Administration to ensure implementation of the FAST Act advantages transit in all possible programs. Among our top priorities in this area is ensuring that the Trump Administration continues to execute the Capital Investment Grant program, as intended by Congress.
- **Public Employees’ Pension Reform Act of 2013:** The Association will continue to urge Congress to monitor USDOL’s actions related to Section 13(c) of the Urban Mass Transportation Act of 1964 to ensure that its compliance with the 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 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.
- **HOT Lane:** The Association will support revising Section 5337 in “High Intensity Motorbus” (HIM) funding program to specify that HOT lane service counts in its formula.
- **Automated Vehicles:** 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 final USDOT policy and the state’s policy framework for automated vehicles.

2018 FEDERAL LEGISLATIVE PROGRAM – ALL ACTION ITEMS

The following summarizes all policy goals the California Transit Association (Association) will actively pursue in 2018. These are a mix of our existing goals and new items added for 2018.

OBJECTIVE 1: Existing transit funds are protected.

A. Advocate for Federal Transportation Appropriations to Support the Implementation of the FAST Act.

In the years spanning the authorization periods for the Fixing America's Surface Transportation (FAST) Act and Moving Ahead for Progress in the 21st Century (MAP-21), Congress has often failed to act on a year-long Transportation, Housing and Urban Development (THUD) appropriations bill by the start of the fiscal year. Instead, Congress has passed short-term continuing resolutions, as it did mostly recently at the start of Fiscal Year 2018, that maintain funding at the previous year's levels. These short-term actions create greater uncertainty about final funding levels, hindering capital planning by transit agencies; and, create delays in apportionments of formula funds and allocations of discretionary funds by the Federal Transit Administration (FTA).

Prior to MAP-21, Congress sometimes failed to appropriate the full amount authorized for FTA funding programs, leading to funding shortfalls for transit agencies. These concerns have resurfaced with the introduction of the Trump Administration's Fiscal Year (FY) 2018 budget, which proposes significant cuts to vital Department of Transportation programs, including the Capital Investment Grant (CIG) program, the Transportation Investment Generating Economic Recovery (TIGER) program and Amtrak's long-distance service.

In general, the Association's advocacy efforts related to the THUD appropriations bill will emphasize the following:

- Support a minimum appropriations level for all FTA formula programs equal to, at least, the authorized spending levels in the FAST Act.
- Support a minimum appropriations level for the CIG program of at least \$2.3 billion annually, equal to the authorized spending level in the FAST Act. Funding for the CIG program in FY 2019 must support allocations to new projects in the Full Funding Grant Agreement (FFGA) pipeline.
- Support the continued addition of language in THUD appropriations bills that direct the United States Department of Transportation to execute the CIG program as intended by Congress.
- Support increased funding levels for the Bus and Bus Facilities and Low or No Emission grant programs.
- Maintain funding for Amtrak's long-distance train service.
- Support a minimum appropriations level for the TIGER program of at least \$500 million annually and support removing the 10% cap on awards by state

B. Advocate for Federal Funding to Support Public Transit Security.

Since the terrorist attacks of September 11, 2001, California public transit agencies have upgraded and strengthened their emergency response and security plans, taken steps to protect their infrastructure, and increased the presence of security personnel on their vehicles and at their facilities. Many public transit systems in California are more secure now than they were prior to 9/11. However, more needs to be done. It is important for the federal government to become a full partner in the efforts to ensure the security of California's public transit riders.

The Association will continue to advocate for maintaining or increasing funding for all 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.

OBJECTIVE 2: New transit funds are secured.

A. Seek New Funding from Presidential Infrastructure Initiative.

President Trump has discussed the need for a \$1 trillion federal infrastructure initiative to rehabilitate and modernize America's aging assets. If formally advanced, this initiative would likely be far-reaching, providing critical new funding and financing options to highways, public transit, airports, goods movement, and telecommunications.

The Association will continue to engage the Trump Administration, California's Congressional delegation and key policy and fiscal committees to ensure that this initiative provides new federal funding to public transit projects in addition to new financing options. More specifically, the Association will advocate for a federal infrastructure initiative that meets the maintenance and expansion needs of California's public transit agencies. Additionally, we will advocate for funding to support innovative mobility options, and the workforce development and research that will support the transportation infrastructure of the future.

To facilitate the rapid investment of any new federal funding, the Association will call on Congress direct new funding to surface transportation programs authorized under the FAST Act and to invest in nationally significant infrastructure projects.

B. Support New Funding to Ensure the Solvency of the Highway Trust Fund, Oppose Efforts to Remove the Mass Transit Account from the Highway Trust Fund.

The Association supports an increase in funding to the Highway Trust Fund so that the Fund remains solvent and capable of fully supporting transit programs. Revenue sources for the Fund should be indexed to keep up with inflation. Additionally, the Association supports maintaining the Mass Transit Account as a subaccount of the Fund, and opposes efforts to eliminate the Fund's role in funding mass transportation projects.

C. Support Innovative Financing Mechanisms for Capital Projects.

The Association supports the continuation and/or authorization of innovative financing mechanisms that will stimulate greater investment in our nation's public transit infrastructure. More specifically, we support increasing authorization levels for the Transportation Infrastructure Finance and Innovation Act (TIFIA) and the Railroad and Railroad Rehabilitation & Improvement Financing program.

The Association also supports America Fast Forward Transportation Bonds (AFF Transportation Bonds) to boost federal investments in America's transportation infrastructure. Specifically, AFF Transportation Bonds would be structured as a sixth class of qualified tax credit bonds under section 54A of the Internal Revenue Code.

OBJECTIVE 3: Laws and regulations that 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 Advantages Transit in all Possible Programs.

The FAST Act continues implementation of important policy and structural changes to federal surface transportation programs that were initiated in MAP-21 and that are 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 on the condition of their systems to FTA 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 Grant Program: The FAST Act included several structural changes to the CIG program (New Starts, Small Starts) that are intended to help FTA review projects more quickly. In addition, the legislation allows “core capacity projects” that are designed 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 guidance or rulemakings issued by FTA 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 execution 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, including with tools such as Letters of No Prejudice, and will seek 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 years. In addition, the Association will oppose the setting or enforcing of targets for reduction or further definition of “proven” as “most cost-effective”.

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 in a manner that is 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 should 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.

NEPA Delegation: MAP-21 expanded the ability of the Transportation Secretary to delegate National Environmental Policy Act (NEPA) responsibilities to include public transit, rail and multimodal

projects. However, a public transit agency may seek a waiver if it wants FTA to continue to perform this function for its projects, rather than having the responsibility delegated to the state Department of Transportation.

The Association supports a clearly-defined process that ensures maximum flexibility for transit systems, including a simple, streamlined process for seeking a waiver.

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 of MAP-21.

Public Transportation Innovation: The FAST Act consolidated transit research under FTA's 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.

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 as options for public transit agencies in California.

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

On December 30, 2014, the United States District Court for the Eastern District of California ruled that the United States Department of Labor (USDOL) erred in relying on the enactment of PEPRA to deny transit grant certifications on grounds related to Section 13(c). Ruling that the USDOL must carry out its duties with respect to California transit grant certifications with the understanding that PEPRA is not a reason to preclude certifications, the district court remanded the case back to the USDOL.

Unfortunately, in response to that remand order, the USDOL then formally communicated its findings that the district court was wrong, that USDOL had not acted improperly, and that the USDOL was reserving its rights to defend its actions again, not only on its original assertions, but on the new findings it brought to bear in response to the remand order.

The parties subsequently returned to court seeking review of this second USDOL decision and, on August 22, 2016, the district court again ruled in favor of the Sacramento Regional Transit District and the California Department of Transportation. Specifically, the district court found that the USDOL's new decision could not be supported by its interpretation of Section 13(c) or legislative history, thus USDOL could not show the existence of a clash between PEPRA and federal labor policy. Further, since the USDOL improperly focused on the results of collective bargaining under PEPRA, rather than on the continuation of the ability to bargain, its decision was flawed. Thus, the district court ruled, the USDOL's new decision must be set aside. Despite these rulings, USDOL has continued to issue conditional transit grant certifications, which specify that, if a grant is accepted and should USDOL prevail in future appeals, transit agencies must restore benefits to pre-PEPRA levels or return grant funding.

The Association will urge Congress to monitor USDOL's actions to ensure that its compliance with the district court's ruling minimizes local financial impacts to transit agencies. Additionally, the Association will call on USDOL to stop issuing conditional transit grant certifications.

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 \$255) 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, 2016. 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 supports 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. Seek Streamlining of Buy America Requirements.

To expedite project delivery, there should be one simplified *Buy America* compliance path for all surface transportation projects (highway and transit) funded by the U.S. Department of Transportation. Currently, the provisions are separate and have given rise to separate regulatory enforcement schemes for highways, rail and transit projects. With the passage of the FAST Act, Congress amended Buy America to provide for a phased increase in the domestic content for rolling stock.

In establishing compliance requirements, enforcement schemes and waiver criteria that differ substantially by project type and funding source, Congress and USDOT have created a body of law that is onerous for transit and commuter/intercity rail agencies to navigate.

The Association will request that USDOT advise agencies on regulatory compliance where FHWA, FRA and FTA funding are on the same project. 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.

J. HOT Lanes.

FTA excludes bus service provided in high-occupancy toll (HOT) lanes from the apportionment formula for the Section 5337 “High Intensity Motorbus” (HIM) 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 5537 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 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 September 12, 2017, the Department of Transportation, under President Trump, released an update to federal automated vehicle policy, revising guidance issued by the Obama Administration. The policy aims to speed the delivery of an initial regulatory framework and best practices to guide manufacturers and other entities in the safe design, development, testing, and deployment of automated vehicles.

The Association will engage USDOT, the National Highway Traffic Safety Administration, California's Congressional delegation and key members of the Brown 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.

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

The Association will work to build new, mutually beneficial relationships between the Association, its members, and public & private partners, as well as enhance existing relationships that have helped support the Association's goals in the past.

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.