



MEMORANDUM

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CC: Karen Keene, Deputy Director of Federal Affairs, CSAC

DATE: December 14, 2015

SUBJECT: Summary of the FAST Act

On December 4, President Barack Obama signed into law a long-awaited surface transportation reauthorization bill. Approved by overwhelming margins in both the House and Senate, the new law will provide five years of highway and transit program funding to States and local governments. Passage of the legislation, entitled the *Fixing America's Surface Transportation (FAST) Act*, represents the first time in a decade that Congress has cleared a long-term highway measure.

Overall, the FAST Act authorizes roughly \$305 billion for highway, transit, safety, and rail-related programs. Of that total, \$225 billion in guaranteed contract authority is provided for the federal-aid highway program and \$61 billion is set aside for federal transit programs. Because revenue and interest coming into the Highway Trust Fund over the life of the Act is projected to amount to only \$208 billion, Congress approved a \$70 billion transfer from the U.S. Treasury's General Fund. The transfer, which will cover the remaining costs, will be offset with a variety of unrelated funding sources.

The FAST Act represents a major victory for California's counties, as it includes a number of CSAC's policy priorities. For starters, the Act creates an environmental "reciprocity" pilot program, which will allow up to five states to utilize State environmental laws and regulations in lieu of Federal laws for key infrastructure projects. Under the Act, an approved state will be permitted to exercise program authority on behalf of up to 25 local governments for locally administered projects.

It should be noted that CSAC championed the creation of the FAST Act's reciprocity program. While the initiative – which has been a long-standing policy objective for the association – was supported by several key members of the California congressional delegation, Representative Jeff Denham (R-CA) successfully marshaled the proposal through the reauthorization process.

The FAST Act also expands participation under the Surface Transportation Project Delivery Program (NEPA assignment/delegation program). Specifically, the Act will allow States to exercise program authority on behalf of local governments for locally administered projects or provide guidance and training on consolidating and minimizing the documentation and analyses necessary for local agencies to comply with NEPA and comparable requirements of State law.

Congress first authorized the NEPA delegation program as a pilot initiative in 2005. The program allowed Caltrans to assume Federal environmental review responsibilities under NEPA and has resulted in a simplified and expedited environmental process for transportation projects on State-owned facilities. The provisions of the FAST Act are designed to help California's local governments realize the same program benefits in the interest of expediting local projects.

With regard to funding for key local infrastructure, the FAST Act makes more federal-aid highway dollars available to counties through a revised Surface Transportation Block Grant Program (STBGP). The law also gradually increases the percentage of STBGP funds that are sub-allocated to local areas from 51 percent in fiscal year 2016 to 55 percent in fiscal year 2020 – previous law sub-allocated 50 percent of funds to local areas.

Additionally, the FAST Act opens up funding under the National Highway Performance Program (NHPP) for locally owned bridges that are *on* the federal-aid highway system, a key CSAC priority. While States would not be required to make such expenditures, the added flexibility is designed to encourage funding parity for local bridge projects. The law also maintains the local "off-system" bridge funding set-aside, which was a key component of the previous highway bill (MAP-21).

Finally, the FAST Act increases investment in public transportation by authorizing higher overall funding levels for urban and rural public transportation formula grant programs. The Act also includes funding for new competitive grant programs for buses and bus facilities, innovative transportation access and mobility, frontline workforce training, and public transportation research activities.

To follow is a chart with a brief summary of key provisions of the FAST Act.

	Fixing America's Surface Transportation Act (FAST Act)
Authorization	Authorizes \$305 billion over five years, an increase of \$20.2 billion compared to maintaining current spending levels.
Program Structure	<p>Continues the core program structure put in place by MAP-21. The FAST Act rebrands and expands the Surface Transportation Program (STP) - now called the "Surface Transportation Block Grant Program."</p> <p>The Act creates a new formula program for highway freight projects and establishes a new competitive grant program for Nationally Significant Freight and Highway Projects.</p>
NHPP	<p>Funding for the National Highway Performance Program (NHPP) will increase from \$22.3 billion in FY 2016 to \$24.3 billion in FY 2020 (currently \$21.9 billion).</p> <p>Of particular interest to California's counties, the Act expands the list of eligible NHPP expenses to include bridges that are not on the National Highway System (NHS).</p>
CMAQ	CMAQ funding will gradually increase from \$2.38 billion in FY 2016 to \$2.6 billion in FY 2020 (currently \$2.27 billion).
STP	<p>As indicated above, the FAST Act replaces STP with a slightly broader block grant program. Funding will increase from \$10.3 billion in FY 2016 to \$11.2 billion in FY 2020 (STP funding is currently at \$10.1 billion).</p> <p>The Act also gradually increases the percentage of funds that are sub-allocated to local governments, increasing from 50 percent in FY 2016 to 55 percent by FY 2020 (existing split is 50/50).</p>
HSIP	Funding for HSIP will increase from \$2.23 billion in FY 2016 to \$2.42 billion in FY 2020 (currently \$2.19 billion).

<p>Transportation Alternatives</p>	<p>Funding for the Transportation Alternatives (TA) Program will increase from \$835 million in FY 2016 to \$850 million in FY 2020 (currently \$820 million).</p> <p>The Act also rolls the TA Program into the Surface Transportation Block Grant Program. States will be required to invest the same amount each year in recreational trails as in 2009 (States also may opt out of the program entirely).</p>
<p>Freight</p>	<p>The FAST Act establishes a new <i>formula</i> program for highway freight projects. Authorization levels are set to increase from \$1.14 billion in FY 2016 to \$1.5 billion in FY 2020. States will first be required to establish a freight advisory committee and develop a state freight investment plan. Program funds will be directed under national and state strategic plans to projects that improve highway freight transportation. States will be able to obligate up to 10 percent of their freight program funds for improvements to freight rail or ports.</p> <p>The Act authorizes funding (increasing from \$800 million in FY 2016 to \$1 billion in FY 2020) for a new <i>competitive</i> grant program - the Nationally Significant Freight and Highway Projects Program - for projects that generate national/regional economic, mobility, or safety benefits. The program will help fund larger projects that improve movement of both freight and people, increase competitiveness, reduce bottlenecks, and improve intermodal connectivity. The law specifies that at least 25 percent of the funds must be spent in rural areas. All grant awards must be reported to Congress, which will have 60 days to reject a project by joint resolution.</p> <p>The Act modifies the National Highway Freight Network created by MAP-21 and requires that the Network be re-designated every five years to reflect changes in freight flows.</p>
<p>Bridges</p>	<p>Maintains the current set-aside for local off-system bridges. In addition, the Act makes State and locally owned on-system bridges - those bridges that are on the Federal Aid System but not on the NHS - <i>eligible</i> for NHPP funding.</p>
<p>TIFIA</p>	<p>The FAST Act cuts the annual investment for the Transportation Infrastructure Finance and Innovation (TIFIA) credit assistance program. While the program will grow from \$275 million in FY 2016 to \$300 million in FY 2020, it is significantly less than the \$1 billion authorized in FY 2015.</p> <p>The Act makes the program more accessible by opening it up to transit-oriented development projects, projects located in rural areas, and projects administered by local governments. It also would lower the project cost threshold.</p>

**Acceleration of
Project
Delivery**

Historic Preservation Requirements

The FAST Act simplifies historical preservation and mitigation requirements. Pursuant to the legislation, DOT may determine that no practical alternative exists when a project might impact a historical resource. When such a determination is made, there would no longer be a need for any further alternatives analysis.

Treatment of Certain Bridges

The Act streamlines the environmental review process for bridge repair by exempting common post-1945 concrete or steel bridges/culverts from individual review.

Efficient Environmental Reviews for Project Decisionmaking

Grants "substantial deference" to the decisions of the lead agency when considering the range of alternatives on a transportation project. A single NEPA document is to be used to satisfy all Federal environmental review and permit requirements.

DOT is required to develop an environmental checklist for transportation projects to improve interagency collaboration between the lead agency and participating agencies.

Improving Transparency in Environmental Reviews

Requires the secretary to establish an online platform and, in coordination with other federal agencies, issue reporting standards to make publicly available the status of reviews, approvals, and permits required for compliance with NEPA or other federal laws requiring an EIS or an Environmental Assessment (EA).

The new law also requires States that have assumed responsibility for making Categorical Exclusion (CE) determinations and/or participate in the Section 327 Surface Transportation Project Delivery Program to provide status information in accordance with the aforementioned standards.

Integration of Planning and Environmental Review

Allows information gathered during the transportation planning process to satisfy NEPA requirements. In addition, alternatives that are analyzed and rejected during the planning process will not need to be reanalyzed during NEPA review.

Surface Transportation Project Delivery Program

Expands participation under the Surface Transportation Project Delivery Program (NEPA assignment program). Specifically, the Act allows States to exercise program authority on behalf of local governments for locally administered projects or to provide guidance and training on consolidating and minimizing the documentation and analyses necessary for local agencies

to comply with NEPA and comparable requirements of State law.

Program for Eliminating Duplication of Environmental Reviews

The Secretary of Transportation is authorized to establish a pilot program whereby States would be permitted to conduct environmental reviews and make approvals for projects under State environmental laws and regulations instead of Federal laws and regulations. The Secretary must first determine that the State law is substantially equivalent to Federal law.

No more than 5 states will be able to participate in the pilot. The Act also allows a State to exercise authority on behalf of up to 25 local governments for locally administered projects.

Such an environmental "reciprocity" program has been a long-standing priority for CSAC.

Application of CEs for Multimodal Projects

Allows lead agencies on multi-modal projects to apply/qualify for CE status with the concurrence of the participating agency.

Accelerated Decisionmaking in Environmental Reviews

Allows a lead agency to modify a final EIS through the use of errata sheets if comments received on a draft EIS are minor and the lead agency's responses to those comments are limited to factual corrections or explanations of why the comments do not warrant further response. The Act also requires a lead agency, to the maximum extent practicable, to expeditiously develop a single document that consists of a final EIS and a record of decision, unless the final EIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns.

Aligning Federal Environmental Reviews

Directs DOT, in coordinating with other relevant federal agencies, to develop guidelines for conducting coordinated and concurrent environmental reviews.

CEs for Projects of Limited Federal Assistance

Expands CEs for projects involving limited federal assistance.

Programmatic Agreement Template

Requires the secretary of DOT to develop a programmatic agreement (PA) "template" for environmental and other required project reviews, including CEs. Once a PA is adopted for a transportation project, all participating agencies will be directed to adhere to the recommendations of the agreement. The Act also directs DOT to allow for classes of CEs to be implemented through a PA, and allows the use of PAs to process CEs as a group.

	<p style="text-align: center;">Modernization of the Environmental Review Process</p> <p>Not later than 180 days after the date of enactment, the FAST Act requires the secretary of DOT to examine ways to modernize, simplify, and improve the implementation of NEPA.</p> <p>In reviewing ways to improve NEPA, the secretary is required to consider a number of factors, including: the use of technology in the process, such as searchable databases, geographic information system mapping tools, and integration of those tools with fiscal management systems to provide more detailed data; other innovative technologies; ways to prioritize use of programmatic environmental impact statements; methods to encourage cooperating agencies to present analyses in a concise format; and, any other improvements that can be made to modernize process implementation.</p> <p style="text-align: center;">Assessment of Progress on Accelerating Project Delivery</p> <p>Requires the Comptroller General to evaluate the streamlining provisions included in this Act, MAP-21, and SAFETEA-LU. Among other things, the study will evaluate which provisions have had the greatest impact on streamlining the environmental review and permitting process, as well as the impact it has had on environmental protection. It also requires the Comptroller General to provide recommendations for additional streamlining opportunities.</p>
Public Transportation	<p>The FAST Act increases the investment in public transportation from \$11.8 billion in FY 2016 to \$12.6 billion by FY 2020 - a substantial boost from the current \$10.7 billion. Funding for transit capital investment grants will also see a sizeable increase, rising from the current authorization level of \$1.9 billion to \$2.3 billion.</p> <p>The Act also includes funding for new competitive grant programs for buses and bus facilities, innovative transportation access and mobility, frontline workforce training, and public transportation research activities.</p>
Miscellaneous	<p style="text-align: center;">National Surface Transportation and Innovative Finance Bureau</p> <p>Establishes the National Surface Transportation and Innovative Finance Bureau within DOT. The Bureau will serve as a one-stop-shop for states and local governments to receive federal financing or funding/technical assistance.</p> <p style="text-align: center;">Bundling of Bridge Projects</p> <p>Allows state and local governments to bundle multiple comparable bridge projects into a single project.</p> <p style="text-align: center;">Transportation Funding Alternatives</p> <p>Directs the Secretary of Transportation to make grants to states to demonstrate alternative user-based revenue mechanisms that could maintain the long-term solvency of the Highway Trust Fund. The stated goal is to test at</p>

least two alternative user-based revenue mechanisms and to provide recommendations for adoption and implementation at the federal level.

Border Infrastructure

Creates a Coordinated Infrastructure (CBI) Reserve Fund that will give states more flexibility in how they use their federal transportation funds. Pursuant to the Act, states like California will be able to reserve up to five percent of their STP funds for qualified border infrastructure purposes, which includes upgrading/renovating border ports of entry.