STAFF REPORT

TO:     External Affairs Committee
        AC Transit Board of Directors
FROM:  David J. Armijo, General Manager
SUBJECT: Monthly Legislation Report

BRIEFING ITEM

RECOMMENDED ACTION(S):
Consider receipt of the monthly legislative report.

EXECUTIVE SUMMARY:
This report provides an update on the monthly legislative activities at State and Federal levels. Action may be taken on any new legislation recommended by staff or on existing Board positions.

BUDGETARY/FISCAL IMPACT:
There is no budgetary or fiscal impact associated with this report.

BACKGROUND/RATIONALE:
Federal Legislation Update

1) Recess
Congress just reconvened on September 10, 2012 after the August recess.

2) Earmark Rescission
During the August congressional recess, the U.S. Department of Transportation announced that certain unobligated transportation appropriations earmarks from FY 2003 through FY 2006 would lose their designations, and funds would be instead given to State DOTs to spend on projects of their choosing. Because appropriations earmarks do not have the force of law, this decision was made by DOT without congressional action. States have until October 1st to identify what projects they will fund, whether it is the original earmarked project or another highway, transit, rail, or port project. Any States with unobligated funds by the end of this calendar year will lose those funds to States that have obligated their amounts fully. However, no new funds are available in Region IX, thus not available for AC Transit. All eligible earmarks were applied to existing projects or to different projects within the same agency or area.
3) FY 2013 Continuing Resolution

One of the first things Congress will do when it reconvenes is finalize the issues to be included in the six-month Continuing Resolution that will fund the federal government through March 31, 2013. House and Senate leaders have agreed in broad terms to fund programs at current levels for this six-month period, leaving the rest of the year for the next Congress and President. But there will be a number of details that need to be resolved before the House and Senate can pass the funding bill. Once Congress passes the CR, it is widely expected that the House and Senate will recess in late September, allowing Members of Congress to resume their election campaigns.

State Legislation Update

Refer to Attachments 1 and 2 respectively for a legislative report and legislative matrix from Platinum Advisors. The matrix lists bills with previously approved Board positions. Action may be taken on any new legislation recommended by staff or on existing Board positions.

ADVANTAGES/DISADVANTAGES:

This report is being provided to inform the Board of monthly legislative activities.

ALTERNATIVE ACTIONS:

This report provides an update of monthly legislative activities.

PRIOR RELEVANT BOARD ACTIONS/POLICIES:

None

ATTACHMENTS:
1. Legislative Report from Platinum Advisors
2. Bill Matrix from Platinum Advisors
3. FY 2011-12 State Advocacy Program
4. FY 2011-12 Federal Advocacy Program

Approved by: Dennis Butler, Chief Planning & Development Officer
Prepared by: Beverly Greene, Director of Legislative Affairs & Community Relations
September 6, 2012

TO: Director Elsa Ortiz, President, and
    Members of the Board

    David J. Armijo, General Manager

    Beverly Greene, Director of Legislative & Community Relations

FR: Steve Wallauch
    Platinum Advisors

RE: Legislative Update

End of Session: The end of session extended beyond the Midnight deadline in order to deal with a few urgency measures, in particular the Timber Tax proposal. The final few minutes, seconds saw the last desperate rush to get bills approved before the midnight deadline. Only bills with an urgency clause can be acted on after midnight. As the clock struck twelve several bills died. These last second casualties included SB 1118 (Hancock), which imposed a recycling fee for used mattresses and SB 1455 (Kehoe), which would extend the sunset date on several clean air and alternative fuel vehicle funding programs. All bills not sent to the Governor are now dead.

Governor Brown now has until September 30th to sign or veto the bills sent to his desk, and he is skipping the Democratic National Convention to focus on the work. The last few weeks have been busy and controversial with the introduction of CEQA reform and workers’ compensation reform. Although the CEQA reform is officially dead for the year, the workers’ comp reform passed this evening and is headed to the Governor. The adopted pension reform package makes everyone unhappy in some way – perhaps a good sign.

The Governor has already announced plans for a special session on health care reform to begin in December to hash out details of the 2014 changes. That’s the only special session to be announced, but if Proposition 30 fails in November we all expect that the Legislature will be called back to the Capitol for a lame duck session to address the fiscal havoc. We’re hoping that won’t be the case.
**New Life for Tax Increment Financing:** The Legislature has left it to the Governor decide if one, none, or all of the tax increment financing bills should become law. These proposals include AB 2144 (Perez), SB 214 (Wolk), and SB 1156 (Steinberg). Each of these bills creates a new form of financing “redevelopment” projects. AB 2144 and SB 214 create a financing process based on existing Infrastructure Financing District law, and SB 1156 is based on redevelopment laws that remain on the books.

The main similarities in each of these proposals are the school share of the increment cannot be touched, and the city or county forming the district must secure the permission of the other taxing entities in order to use that entity’s share of the tax increment. For example, AC Transit must agree to contribute its share of the tax increment before a city or county creating the district can divert AC Transit’s share. The bills diverge from there with respect to the governance and any vote requirements to create a district. At this point it is unclear if the Governor is prepared to sign any of these bills.

- **SB 214** would eliminate the existing 2/3 vote requirement required to create and IFD and issue bonds. The bill would also expand the types of projects that can be funded and it specifically prohibits the use of these funds to finance an auto mall or big box retailer. To provide greater oversight, SB 214 requires the formation of a public accountability committee, which would include a representative from each of the taxing entities that are contributing tax increment to the district.

- **AB 2144** creates a new IFD chapter called Infrastructure and Revitalization Financing Districts (IRFD). This bill lowers the public vote requirement to create a district from 2/3 to 55%, but it eliminates the vote requirement to create an IRFD at a former military base if it is publicly owned. This bill also allows the city or county creating the district to dedicate its share of former redevelopment tax increment funds to the new IRFD.

- **SB 1156** is the only measure that uses existing RDA laws to create a new form tax increment financing that would be called Sustainable Communities Investment Authorities (SCIA). For a city to create an SCIA it must obtain the consent of the county and it must form a JPA with the county to govern the project area. This bill basically focuses an SCIA to include a transit priority area, which must include a major transit stop, or small walkable communities areas.

**Pension Reform:** Both houses of the Legislature adopted a slimmed-down version of the pension reform plan that the Governor released last fall. On the Assembly side there was much debate and gnashing of teeth over whether or not the plan was worth voting for. There were legislators who seemed downright angry about certain elements of the bill (AB 340 – Furutani). Members of the minority party in the Assembly kept comparing the bill to the Governor’s plan and noting how short the bill falls by contrast. On the other end of the spectrum was a Democrat who passionately exclaimed that taking away the right from workers to bargain some issues is a slippery slope.
Below is a quick breakdown of the package, but if you’d like more information please let us know.

- Fixes spiking by requiring that pensions be based on an employee’s average annual compensation over three years for employees hired after January 1, 2013. Bonuses, overtime, and payouts for unused sick leave and vacation time are not to be included in the average.
- Fixes spiking for existing employees by limiting items to be included in pensions to those earned in each 12-month period during the final average pay period.
- Prohibits retroactive pension increases for employees hired after January 1, 2013.
- Creates pension caps for employees hired after January 1, 2013.
- Raises the retirement age for employees hired after January 1, 2013.
- Requires that all retirees wait six months before returning to work and would not be allowed to work more than 120 days per year with specified exceptions.
- Individuals hired after January 1, 2013 who are convicted of a felony while on the job would forfeit their pension.
- Prohibits all employees from purchasing service credits or “airtime.”
- Requires that all employees pay 50% of the annual contribution made to their pension funds within five years.
- Establishes new pension formulas for new employees hired on or after January 1, 2013.
- Prohibits pension holidays for all employees.
- According to CalPERS, this pension reform package will save between $40 and $60 billion over the next 30 years.

Workers’ Comp Reform: While the last week of session swirled with on again off again rumors on a reform proposal, SB 863 was finally taken up on the final night of session. The package has been under discussion at the Capitol for weeks, after labor and employer groups put together an outline of agreed-upon reforms. The principal focus of the bill is to address low permanent disability benefits for injured workers and the lack of standard fee schedules.

The bill’s provisions touch upon many issue areas but its overall goal is to standardize the workers’ compensation process to reduce unnecessary disputes and costly litigation. The need for the legislation is all the more timely given that an increase in employer rates is pending. For public self-insured employers the bill requires specified information to be submitted to the Director of Industrial Relations. The Commission of Health and Safety and Workers’ Compensation would also be required to conduct an examination of the public self-insured program, and to publish a preliminary and final report.
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NEW ITEM

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| SB 1455    | SB 1455 was gutted and amended during the final week of session. This bill proposes to extend the sunset dates for various clean air and alternative fuel vehicle programs. This bill had a wide range of environmental, agricultural and oil industry support, which was able to secure the 2/3 vote requirement to get this bill out of the Assembly. However, with the clock ticking toward midnight, the author and supporters were not able to secure the 2 Senate Republicans needed for passage before time ran out. Specifically this bill proposed to extend the following fee programs to December 31, 2023:  
• AB 118 -- Authorizes a vehicle registration fee to fund the Alternative and Renewable Fuel and Vehicle Technology Program.  
• AB 923 -- Increased the vehicle registration fee for vehicles registered in specified areas in the state and increased the Tire Recycling Fee to fund air emissions reduction activities.  
• The Carl Moyer Memorial Air Quality Standards Attainment (Carl Moyer) Program, which can be used to fund the incremental cost of cleaner-than-required vehicles, engines, and equipment. The bill also included provisions prohibiting CARB from moving forward with the Clean Fuel Outlet regulations and to instead use AB 118 funds for the construction and operation of a hydrogen fueling network in California. | DEAD   | AC Transit – No Position |
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<td><strong>AB 57</strong>&lt;br&gt;(Beall D)&lt;br&gt;Metropolitan Transportation Commission.</td>
<td>Before the leaving for recess the Legislature sent AB 57 to the Governor, who approved the bill on July 13. AB 57 would add two new representatives to the Metropolitan Transportation Commission governing board. The bill authorizes the Mayors of San Jose and Oakland to each appoint a representative to MTC. In addition, the bill would specify that the appointee representing BCDC shall be a resident of San Francisco and be appointed with the approval of the Mayor.</td>
<td>Signed Into Law&lt;br&gt;Chapter 88, Statutes of 2012</td>
<td>AC Transit - Support</td>
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<td><strong>AB 485</strong>&lt;br&gt;(Ma D)&lt;br&gt;Greenhouse Gases</td>
<td>During the final week of session AB 485 was gutted and amended to include provisions to add public transportation agencies to the list of entities that include residential and small businesses that can receive revenue derived from greenhouse gas allowances allocated to electric utilities. This change was also included in AB 2529 (Wieckowski), which included numerous other clean-up changes to the PUC’s role in allocating cap-and-trade revenues. Both bills died because an agreement could not be reached. Previously, AB 485 would allow for the creation of an Infrastructure Financing District (IFD) to fund transit village improvements without a 2/3 public vote and it would require 20% of the tax increment revenue be dedicated to building low and moderate housing within the district.</td>
<td>DEAD</td>
<td>AC Transit – Support (prior version)</td>
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<td><strong>AB 492</strong>&lt;br&gt;(Galgiani D)&lt;br&gt;Public transportation agencies: administrative penalties.</td>
<td>Existing law authorizes AC Transit and other specified operators to establish a civil infraction process for specified transit violations. AB 492 was recently gutted and amended to allow any transit operator to establish a civil infraction process. Under the civil infraction process, a transit district may adopt and impose an administrative penalty and adjudication process that is similar to the process for issuing and enforcing parking tickets.</td>
<td>ASSEMBLY ENROLLMENT</td>
<td>AC Transit – Support</td>
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| **AB 710**  
(Skinner D)  
Local planning: infill and transit-oriented development. | AB 710 failed passage on the Senate Floor, and it is now a dead bill. This bill would enact the Infill Development and Sustainable Communities Act of 2011. In short, this bill would establish minimum parking standards for new transit oriented development projects.

The sponsors, The Infill Builders Association, are considering a new proposal that that would create parking standards for small infill developments, but this proposal will include provisions that allow a jurisdiction to opt out if more parking is required for the specific area. The focus on this proposal is to incentivize development of lower-cost residential and commercial units on small lots in urbanized areas. | **SENATE FLOOR -- DEAD**  
AC Transit - Support In Concept |

| **AB 1706**  
(Eng D)  
Vehicles: transit bus weight. | AB 1706 was approved by the Legislature. As sent to the Governor, this bill would enact the following changes:

- Grandfathers in all public transit buses procured before January 1, 2013.
- Between 2013-2015, transit systems can only replace buses on a "like for like" basis, meaning they can only buy buses similar in weight to buses they are replacing.
- Transit agencies can incorporate a new type of bus into their fleets only as long as it is approved by the transit agency's governing board as part of a public hearing.
- Any procurement decisions must be heard in a public hearing of the transit board, accompanied by a finding-of-need, must be tied to existing board-approved documents (such as a Short Range Transit Plan), and notice must be given to city and county representatives.
- Requires state agencies to take into account impacts to vehicle weights when promulgating new regulations.
- These provisions would sunset in 2015, and bus weight limits would revert back to current state law unless new legislation is enacted.
- Includes intent language that transit bus | **ASSEMBLY ENROLLMENT**  
AC Transit – Support |
| **AB 2200**  
(Man D)  
Vehicles: high-occupancy vehicle lanes. | manufacturers will move toward producing lighter buses.  
- The specific demonstration bus exemption is eliminated. Existing demonstration buses are grandfathered in with the other buses and can be purchased subject to the procurement process above. | ASSEMBLY ENROLLMENT | AC Transit - Oppose |
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| **AB 2247**  
(Lowenthal, Bonnie D)  
Public transportation: offenses. | AB 2247 was approved by the Legislature, with only the only Bay Area votes in favor being cast by Senators Simitian and Alquist and Assembly members Ma and Swanson.  
As sent to the Governor, this bill would eliminate the HOV operating hours on the eastbound morning commute along I-80 in the Bay Area. The amendments were based on a recent Caltrans report that found there would be no impact to congestion if the HOV lane requirements were lifted on the morning eastbound direction only. There is no impact because Caltrans found there is no need for the capacity that would be created by removing the HOV lane restrictions. While the changes should not impact congestion or transit services, the bill remains bad policy. | ASSEMBLY ENROLLMENT | AC Transit - Support |
| **ACA 23**  
(Perea D)  
Local government transportation projects: special taxes: voter approval. | ACA 23 would amend the Constitution to lower to voter approval threshold to 55% for the imposition, extension, or renewal of a local tax for transportation projects.  
ACA 23 was amended to include language that would apply the changes made by ACA 23 to any local transportation sales tax measure on the same ballot as ACA 23. Although this bill did not move out of the Assembly, Assemblyman Perea has said he will reintroduce this measure again next year. | DEAD | AC Transit - Support |
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<td><strong>SB 1339</strong></td>
<td>SB 1339 was approved by the Legislature before leaving for Summer Recess. The bill remains in the “engrossing &amp; enrolling” holding file. The Governor’s time clock to sign or veto this bill does not start until the bill is moved from engrossing &amp; enrolling to the Governor’s desk. There is no limit on how long it can sit in engrossing &amp; enrolling. This bill authorizes, until January 1, 2017, a pilot program in the San Francisco Bay Area that allows the Metropolitan Transportation Commission (MTC) and the Bay Area Air Quality Management District (BAAQMD) to adopt jointly an ordinance requiring employers with 50 or more employees to offer their employees specified commute benefits.</td>
<td>SENATE ENROLLMENT</td>
<td>AC Transit - Support</td>
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<td><strong>SB 1396</strong></td>
<td>The author pulled the bill from the Senate Transportation &amp; Housing agenda on May 8 due to insufficient support from the committee. At this point, SB 1396 is basically dead for the year. SB 1396 would limit the application of sales tax on gasoline purchases to $3.88 per gallon or less, and limit diesel fuel sales to the first $3.52 per gallon. The bill also caps the excise tax on gasoline at 35.7 cents per gallon. The proposed cap would directly affect State Transit Assistance revenue and local sales tax revenue.</td>
<td>SENATE T. &amp; H. -- DEAD</td>
<td>AC Transit - Oppose</td>
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Board Watch Positions
| Account. | final day of session to make several changes requested by the Administration. In particular, providing the Department of Finance and the Governor’s office greater oversight in the development of expenditure plans. The amendments also replace the potential funding categories with fewer more broadly worded categories. Even with these amendments it is questionable whether the Governor signs this bill because the Administration believes implementing legislation is not needed. |

| **AB 1963**  
(Huber D)  
Personal income tax: Sales and use tax: Legislative Analyst’s Office: report. | As amended, AB 1963 directs the LAO to study and make recommendations on how the state could diversify tax revenue in a revenue neutral manner. This study will include an analysis of imposing a tax on the sale and use of services, while also reducing the overall sales tax rate. |

| **AB 2405**  
(Blumenfield D)  
Vehicles: high-occupancy toll lanes. | As approved by the Legislature, AB 2405 would exempt specified vehicles from paying toll charges imposed on HOT lanes. This exemption does not apply to tolls imposed for toll bridges or toll highways. Under this bill vehicles that are 100% battery electric, hydrogen fuel cell, compressed natural gas vehicles, and advanced technology partial zero emission vehicles, which include the Chevy Volt and Prius Plugin, would be exempt from HOT lane tolls. These vehicles are currently eligible for stickers exempting them from HOV lane occupancy requirements. |

| **SB 1464**  
(Lowenthal D)  
Vehicles: bicycles: passing distance. | As sent to the Governor, SB 1464 would enact minimum standards requiring motorists to maintain a distance of at least 3 feet when passing a bicyclist. The bill also makes conforming changes to allow a motorist to cross a double yellow line when passing a bicyclist. The bill was also recently amended to add an exemption for situations where the |
| SB 1572  
(Pavley D)  
California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Account. | Time ran out for SB 1572. The bill was amended on the last day of session, which creates required committee hearing hoops. SB 1572 specified how Auction Revenue will be allocated in to 2012-13 fiscal year if auction receipts exceed $550 million. | DEAD | AC Transit - Watch |
Funding

- Support efforts that create new sources of operating funds with equitable distribution to reflect urban transit needs.
- Support efforts to sustain existing transit revenues.
- Support efforts that would exempt public transit providers from state sales tax.
- Support efforts to provide funding for lifeline services including, but not limited to services for access to work, school or medical facilities.
- Support local ability to increase fees and gas taxes to be used for local mass transit purposes.
- Support legislation and programs that would provide funding for global warming initiatives, clean air and clean fuels and that support implementation of AC Transit's Climate Action Plan.
- Seek funding for East Bay Bus Rapid Transit.
- Support congestion pricing strategies and legislation that provide an equitable multi-modal distribution of generated revenues.
- Support legislative or administrative action to remove State barriers so that Medicaid transportation funds can be used for public transit services, including ADA paratransit services.
- Support funding and coordination between Health and Human Service (HHS) agencies and other transportation agencies to provide services to HHS clients.
- Support legislation and programs that would provide funding for employee benefits programs.
- Support funding initiatives that relieve the fiscal burden of mandatory regulations.
Equipment and Operations

- Support legislation or administrative action that would direct Caltrans to establish and maintain HOV lanes on state highway routes and to improve existing HOV lane management to maximize throughput.

- Support incentives to provide bus contra flow lanes on the San Francisco-Oakland Bay Bridge to/from Transbay Terminal.

- Support legislation to exempt public transit vehicles from state and local truck route ordinances.

- Support legislation or administrative action that would direct Caltrans to permit permanent use of freeway shoulders by public transit buses.

Transit Incentives

- Support legislation to provide incentives for employees and employers to use public transportation to commute to work, including tax credits for purchasing transit passes.

- Support Clean Air Initiatives that encourage increased public transit use.

- Support incentives that would give auto insurance credits to heavy transit users.

- Support common fare programs between Bay Area systems.

- Support legislation to provide incentives for local governments and developers to incorporate transit passes into the cost of housing.

Environment and Transit Supportive Land Use

- Advocate for transit-supportive legislation that addresses climate change, healthy communities and environments.

- Foster transit supportive land use initiatives that require coordination with transit providers in the initial stages of local planning or project development that impacts transit, including density level decisions or transit oriented developments (TODs); and advocate for the required use of:
  - Transit streets agreements
  - Complete streets plans in which local transportation plans anticipate use of all modes

- Support legislation that requires reporting of Vehicle Miles Traveled (VMT) annually through DMV renewal.
Policy Interests

- Support simple majority vote for local transportation ballot tax initiatives.

- Support legislation to allow District to ban persons for specified offenses from entering district property.

- Seek revisions to the Metropolitan Planning Organization (MPO) grandfather clause that supports direct representation of transit properties on local transportation policy boards.

- Redefine agency as Rapid Transit District.

- Support legislation for STA formula reform that includes federal operating funding as eligible revenue.

- Support efforts that maintain existing Workers’ Compensation regulation.
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2011-12 Federal Advocacy Program

Funding

• FY 2012 Grant Opportunities- Secure federal funds for key capital projects and support funding for 2013 Project Priorities for:
  o East Bay BRT Improvements within the Small Starts Program and other programs
  o AC Transit’s Intelligent Transportation and Communication System upgrades
  o Facility State of Good Repair for improved energy efficiency and environmental emission systems
  o Bus lifting equipment program
  o Bus Rapid Transit service along Broadway-College corridor

• Advocate for supplemental funding through the Federal Transit Administration to offset rising operating costs without jeopardizing total funding available for capital projects.

• Support funding for the Transbay Terminal.

• Support/seek additional funding for lifeline services including, but not limited to services for access to work, school or medical facilities.

Transportation Authorization Principles

• Support efforts to increase the gas tax or to increase other revenues to replenish the Highway Trust Fund/Mass Transit Account.

• Support transportation authorization reform that emphasizes greater funding levels to urban mass transit systems, and oppose efforts to reduce spending on transit formula programs.

• Support FTA and Congressional efforts to make State of Good Repair a strategic priority.

• Support consolidation of smaller formula programs such as JARC, New Freedom and 5310 Elderly and Disabled Programs and concentrate the funding in urban areas, and reform formulas to support large urbanized areas.
• Seek revisions to the Metropolitan Planning Organization (MPO) grandfather clause that supports the direct representation of transit properties on local transportation policy boards.

Other Advocacy

• Advocate for transit-supportive legislation that mitigates global warming and/or calls for environmental stewardship and related funding.

• Support funding and coordination between Health and Human Service (HHS) agencies and other transportation agencies to provide services to HHS clients.

• Support modal parity in the commute tax benefits.

• Support legislation that relieves the fiscal burden of mandatory regulations.