

Orange County Transportation Authority 2013 – 2014 2015-2016 Federal Legislative Platform

INTRODUCTION

With a population of over three million, Orange County is the second most populous county in California and the fifth most populous county in the nation. Orange County is also one of the most densely populated areas in the country and is second only to San Francisco for the most densely populated county in the State of California. National and global attractions include Disneyland, Knott's Berry Farm, and over 42 miles of beaches, making Orange County a worldwide vacation destination.

Among metro areas in the United States (U.S.), Orange County is *one of the 15th top 20* producing economies in the nation and is home to one of the busiest transit systems in the nation. In addition, Orange County provides highway and rail corridors that facilitate an increasing level of international trade entering the Southern California ports. However, according to the latest annual survey of urban mobility by the Texas Transit Institute, the Los Angeles metropolitan area, including Long Beach and Orange County, also has the ~~third~~ *second* most congestion of any metropolitan area in the nation, delaying drivers an average of more than 61 hours per year. In conducting all of its activities, Orange County Transportation Authority (OCTA) strives to the maximum extent possible to improve transportation performance, reduce congestion, and reduce emissions. With regard to federal revenues, Orange County is consistently a donor county within a donor state.

OCTA's Federal Legislative Platform outlines the statutory, regulatory, and administrative goals and objectives of the transportation authority. The following platform was adopted by the OCTA Board of Directors (Board) to provide direction to staff and federal legislative advocates for the ~~113th~~ *114th* Congress.

PRINCIPLES AND OBJECTIVES

OCTA will use the following principles and objectives to guide implementation of the specific recommendations contained in this platform:

1. OCTA will seek to obtain a fair share of federal funding from all sources for transportation projects within the County, taking into account its size, population, congestion mitigation, and particular transportation needs;
2. OCTA will support the transportation legislative efforts and objectives of other Orange County entities, as appropriate to further the implementation of this platform provided that such efforts by others are consistent with OCTA Board approved projects and policies;

3. In order to accomplish the goals of this platform, the OCTA will seek to work with other entities such as the Orange County Business Council, regional entities such as county transportation commissions and transit agencies, the Southern California Association of Governments, and Mobility 21.
4. OCTA will take an active role in the process of formulating legislation which will reauthorize the federal highway and transit programs in the timeframe beyond ~~September 30, 2014~~ *May 31, 2015*, reaching out to the region, state, and appropriate congressional leaders, and working with them towards a *long term and stable* future reauthorization program which benefits Orange County.

I. Annual Transportation Funding

On July 6, 2012, President Obama signed Public Law 112-141, Moving Ahead for Progress in the 21st Century (MAP-21) which authorizes surface transportation funding for federal fiscal years (FFY) 2013 and 2014. However, MAP-21 lacks the firewalls from previous transportation authorization legislation. In the past, these firewalls required the annual appropriation of all authorized amounts from the Highway Trust Fund. Therefore, the annual appropriations process will continue to play a role in the OCTA federal legislative platform and OCTA will continue to advocate for the largest possible annual appropriations to implement MAP-21.

An important aspect of MAP-21 was the bipartisan Congressional agreement that the legislation not contain any funding specifically directed to individual projects (commonly referred to as “earmarks”). It is expected that annual appropriation bills will follow a similar approach. Accordingly, there are no earmark requests included in the OCTA platform for the ~~413th~~ *114th* Congress. Should this situation change, OCTA will seek the guidance and input of the Legislative and Communications Committee regarding any project requests.

Even in the absence of specific congressional earmarks, small amounts of discretionary transportation funding continue to be distributed by the U.S. Department of Transportation (DOT). As long as this remains the case, OCTA will continue to aggressively pursue discretionary funding for transportation projects from U.S. DOT, working within the parameters of DOT funding eligibility, the current funding status of OCTA’s capital program, and the direction of the Legislation and Communications Committee.

Other annual appropriations funding priorities for OCTA include:

- a) Support appropriations and additional funding *with increased flexibility*, of transit security grant programs for the Department of Homeland Security (DHS) to protect county surface transportation systems, including highways, transit facilities, rail lines, and related software systems;
- b) Support New Start funding for fixed guideway projects selected for implementation through the Go Local process;

- c) In concert with regional transportation agencies, seek funding for the Southern California Regional Training Consortium to develop bus maintenance training information for the transit agencies throughout Southern California;
- d) Support appropriations funding of the Rail Safety Improvement Act of 2008 (RSIA) particularly funding for implementation of positive train control requirements and other safety enhancements or risk reduction recommendations called for in Title I of RSIA, ~~funding for intercity passenger rail service corridor capital assistance provided in Title III of RSIA, and funding for high-speed rail corridor development provided in Title V of RSIA;~~
- e) *Support the Passenger Rail Investment and Improvement Act (PRIA) and federal funding for intercity and regional rail corridors in California including the Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Corridor;*

II. Advocacy Efforts for Implementation of Existing and Planned Federal Highway and Transit or Rail Programs

With the ~~passage~~ *recent extension* of MAP-21, OCTA efforts during ~~2013~~ 2015 and ~~2014~~ 2016 will *continue* to focus on regulatory implementation of this legislation and on possible additional legislation to compliment the programs and provisions set out in MAP-21. During this time OCTA will advocate for the following issues:

- a) Advocate for a fair and equitable distribution of MAP-21 funding to OCTA from the State of California in accordance with any agreed-upon statewide administrative plan or enacted state legislation
- b) Working with regional agencies, advocate for a high ranking of the ACE project as part of the U.S. DOT's Projects of National and Regional Significance program;
- c) Upon definition and approval by the Board, seek support from the Federal Transit Administration and Orange County Congressional Delegation for any fixed guideway transit projects approved for implementation by the Go Local process;
- d) Pursue *continued* eligibility of Congestion Mitigation Air Quality (CMAQ) program funding for at least three years of operating expenses associated with any new start fixed guideway projects in Orange County;
- e) Support expanded design-build authorization for federally-funded highway and surface transportation projects, in accordance with the OCTA Breaking

Down Barriers report (approved by the Board on March 28, 2011) *and any similar follow on reports;*

- f) Support environmental process improvements and stewardship efforts by the relevant federal agencies to expedite project delivery and accelerate the creation of jobs, in accordance with MAP-21 and the OCTA Breaking Down Barriers Report approved by the (Board on March 28, 2011) *and any similar follow on reports;*
- g) Support expedited federal review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities, in accordance with MAP-21 and the OCTA Breaking Down Barriers Report approved by the (Board on March 28, 2011) *and any similar follow on reports;*
- h) Support efforts within the surface transportation reauthorization legislation, or other appropriate legislation, that direct state departments of transportation to give consideration to the condition and effectiveness of local evacuation routes in high risk areas when setting priorities for the disbursement of highway funding.
- i) Support efforts to authorize and fund bike paths and bike trails within Orange County;
- j) Advocate for legislation, *programs, and projects*, which encourages, where possible, a “complete streets” approach to planning and multi-modal planning approaches in order to expedite project delivery.
- k) Advocate for inclusion of recommendations from the OCTA Breaking Down Barriers Report, (approved by the Board on March 28, 2011) *and any similar follow on reports*, as part of future legislation and regulations;
- l) Encourage the Federal Highway Administration (FHWA) to return the Regional Transportation Plan (RTP) to a long-range planning and vision document rather than a detailed, 30-year financial plan, as current regulations mandate;
- m) Regulations have shifted the approval of RTP amendments involving Transportation Control Measures from FHWA to the Environmental Protection Agency (EPA). OCTA requests that this approval process revert back to FHWA and maintain a consultation process with EPA.
- n) Request that federal funding guidelines permit use of funds for soundwalls as a local option. The FHWA does not permit the use of highway funds to retrofit soundwalls, yet federal trade policies have led to increased freight traffic along goods movement corridors and hence noise along the

freeways. OCTA requests that the policy be amended to allow highway funds to be used to mitigate the impacts of freight traffic on local communities adjacent to goods movement corridors.

- o) Work with the FHWA or appropriate members of Congress, to obtain flexibility and increased local decision-making authority regarding the operation of high-occupancy vehicle (HOV) lanes, *in order to reduce or eliminate the unintended consequences provided by Section 166 of the Federal Highway Act or any similar provisions regulating degradation of HOV lanes;*
- p) ~~Engage Working~~ with the State of California and other state *and federal* stakeholders, *to seek the mitigation or elimination evaluate the need for of any federal requirements for* direct actions within 180 days in response to any degradation found to exist on federally funded highways.
- q) Support legislative and administrative streamlining of Federal Buy America requirements to permit greater surety regarding the requirements and greater flexibility in applying the requirements to federal funded highway and transit projects.
- r) In conjunction with other Southern California public rail transportation providers, support legislative and administrative efforts to: 1) maintain present legislative deadlines for implementation of Positive Train Control (PTC) nationwide; and 2) assure that any alternative technologies employed in other rail systems are interoperable with, and contain the same safety benefits as, the PTC system implemented by Metrolink. 3) *Ensure that the necessary technical resources such as wireless spectrum are made available, as appropriate, for the full implementation of PTC.*

The last 16 miles of the 67-mile Transportation Corridor Agencies (TCA) toll road system, known as the Foothill South Project, represents the only Southern Orange County travel alternative to the Interstate 5 (I-5). The I-5 corridor is already dominated by severe traffic congestion, negatively impacting travelers throughput in Orange County. Due to the need to use property leased from the federal government as part of the preferred right of way for the extension, opponents of this project have used federal legislation in an attempt to halt or severely impede project completion. Therefore, the OCTA will continue to oppose any provision of federal law which would impede the completion of the project and will work in an active partnership with the TCA in Washington to seek a resolution to this issue which will permit the completion of a Foothill South Project through Southern Orange County.

III. Economic Impact Legislation and Regulations

Several federal legislative and regulatory actions are also under consideration to prevent unintended adverse economic impacts to the transportation industry and also to appropriate funding for transportation infrastructure projects as a means of creating needed jobs in the economy. In this regard, OCTA will:

- a) Support legislation or regulations to prevent the adverse economic impact which would result from the forced early termination, through technical default, of leveraging agreements such as those entered into by Metrolink for rail rolling stock;
- b) Support legislation which would hold harmless local governments who held debt instruments of Lehman Brothers on September 15, 2008, and other regulatory actions pursuant to section 103 of the Emergency Economic Stabilization Act which are needed to ensure stability in local entities that, through no fault of their own, suffered losses in the economic crisis of 2008;
- c) Support federal legislation and programs, which accelerate funding for transportation infrastructure projects and thereby create additional jobs and economic activity in Orange County
- d) Oppose any federal legislation or regulatory action which acts to impede the development of business opportunities and job creation in Orange County;
- e) Support federal assistance for transit operations, provided that such assistance substantially conforms with the Principles for Emergency Support for Public Transportation adopted on December 15, 2009, by the American Public Transportation Association. Specifically, such operations assistance should: 1) be temporary; 2) not be considered a precedent for any ongoing program, or a substitute for the currently authorized transit program; 3) be funded by the general fund apart from any ongoing transit appropriations; 4) sunset when the economy recovers and unemployment is reduced to a determined acceptable level; 5) be used to preserve or create jobs and transit service, and not for wage increases to current personnel; and 6) be available for capital purposes to the extent not needed for direct operating costs;
- f) Oppose any retroactive increase in the current rail passenger liability cap of \$200 million per incident and work with regional partners to assess the appropriate level of any future liability cap, taking into account the limited resources of public sector passenger rail providers.

IV. Reauthorization of the Highway, ~~and Transit,~~ and Rail Programs

During the nine year life of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users (SAFETEA-LU) and its extensions, OCTA received over \$1.4 billion in transportation funding from programs authorized under the act. The overwhelming majority of these funds (approximately \$1.3 billion) were provided pursuant to formula funded programs on a pay-as-you-go basis. A large percentage of the formula funds are used to fund the OCTA's transit operating budget. The remainder is used for highway, transit, and surface transportation capital projects throughout the region.

MAP-21 continues surface transportation funding at SAFETEA-LU levels into ~~FFY 2013 and FFY 2014 and part of FFY 2015.~~ *However, Under a recently passed extension, MAP-21 will now expire on September 30, 2014; May 31, 2015, therefore, the 113th 114th Congress will be considering new transportation reauthorizing legislation. In addition, the Passenger Rail Investment and Improvement Act of 2008 (PRIA) also expired at the end of Federal fiscal year 2013 and Congress will likely be considering new rail reauthorization in the 114th Congress as well.*

- a) OCTA will analyze key *highway, transit, and rail* reauthorization proposals as they emerge to determine:
 - 1) The source, ~~and~~ *adequacy, and stability* of proposed future revenues to meet future transportation needs and the economic impact to the public of collection of those revenues;
 - 2) The extent to which a proposal will maximize the return of federal revenues to California and to OCTA;
 - 3) The extent to which a proposal enhances the federal funding partnership by helping OCTA address capital and operating revenue shortfalls; and
 - 4) Whether or not the proposal contains any unfunded statutory or regulatory mandates applicable to OCTA;
 - 5) The extent to which the proposal contains provisions which support the recommendations contained in OCTA's Breaking Down Barriers Report (approved by the Board on March 28, 2011) *and any similar follow on reports;*

Based upon this analysis, OCTA will seek a Board determination of the appropriate approach to surface transportation reauthorizing proposals in Washington.

- b) OCTA generally supports program features in the next *highway, transit, and rail* authorization *legislation* which enable greater flexibility in permitted uses of transportation funds, and which distribute funding based upon

formula factors which adequately recognize the extent of transportation funding needs within Orange County.

V. Goods Movement

The twin Ports of Los Angeles and Long Beach, while still are considered “America’s Gateway,” and the nation’s busiest ports, ~~have both suffered significant fluctuations in volume because of the volatility of the worldwide economy. The ports are not expected to fully recover from the turndown until at least 2013. Even with this forecast,~~ † The maintenance and improvement of our region’s goods movement infrastructure must continue to be a national priority if our region is to remain competitive with the rest of the world and be responsive to the consumer needs of the nearly 18 million people living in Southern California. The need for the Southern California region to remain competitive is further underscored by the expansion and modernization of the Panama Canal. Even at reduced volumes, current revenue streams are not sufficient to fund the projects needed to offset the costs of moving these goods.

In March 2007, the Board adopted a Goods Movement Policy intended to guide OCTA decisions regarding goods movement. Further, in July 2007, the Board adopted Principles for a Container Fee Program, which is intended to guide analysis of legislative programs applicable to goods movement at ports. OCTA will use these two policies to evaluate any federal legislative proposals regarding goods movement.

MAP-21 provides “that it is the policy of the United States to improve the condition and performance of the national freight network and to ensure that the national freight network provides the foundation for the United States to compete in the global economy...” MAP-21 also sets out a timetable and specifications for the designation of a Primary Freight Network and a National Freight Strategic Plan. Working with the regional partners, OCTA’s advocacy efforts in this regard will emphasize the following:

- a) Pursue new, stable, dedicated, and secure sources of funding for goods movement infrastructure, such as a goods movement trust fund, which ensure that any revenues are dedicated to use for projects in the *goods movement* corridors where they are *generated or* collected;
- b) Assure that the benefits of *newly-funded projects also take into account mitigation factors to impacted communities outweigh the economic impact to the public from collection of the revenues*;
- c) Continue to work with Congress, the state, and local governments, as well as with the private sector, to develop and implement the needed infrastructure programs and projects;

- d) Ensure that public control of goods movement infrastructure projects is retained at the local level;
- e) Seek mitigation for the impacts of goods movement on local communities in Orange County.

VI. Homeland Security

OCTA continues cooperative efforts with neighboring transit agencies, Urban Area Security Initiative partners, state and federal Homeland Security grant partners, and local jurisdictions to enhance the security of regional highway, bus, and rail systems. In addition to seeking additional grant funding to secure the county's highways, rail, and transit systems, OCTA will pursue the following regulatory and statutory changes to ensure homeland security needs are met:

- a) Support increased federal funding to transit agencies for staff training and operational security improvements for highways, transit, and rail security in the U.S.; *and flexibility for the use of these funds;*
- b) Support a fair and effective distribution of grant funds which takes into consideration the risk of terrorism on targets in Southern California as estimated by the DHS, working in cooperation with state and local officials;
- c) Support programs that reach out to state homeland security officials to improve information exchange protocols, refine the Homeland Security Advisory System, and support state and regional data coordination.

VII. Energy Issues

Legislation addressing U.S. policies on energy is likely to play a role in the ~~113th~~ 114th Congress. The transportation sector is the largest consumer of petroleum in the U.S. Therefore, the focus by Congress to further develop energy efficient policies is likely to have an impact on OCTA operations. With this in mind, OCTA will:

- a) Monitor legislation and federal rulemaking that addresses new or emerging energy policies such as incentives for alternative fuel technology and use and developer incentives supporting transit programs, as well as research and technology;
- b) Provide federal legislative reports to the Board outlining any energy-related legislation introduced in the next Congress that potentially impacts OCTA operations;
- c) Work with industry associations to comment on congressional actions and/or federal policies that impact the public transportation sector;

- d) Support the continuation of fuel tax credits for the OCTA's use of compressed natural gas and liquefied natural gas.

VIII. Environmental Policy and Other Regulatory Requirements

Federal environmental laws and regulations affecting OCTA include the National Environmental Protection Act, the Federal Clean Air Act, Federal Water Pollution Control Act, and the Endangered Species Act. With regard to these acts and related regulations, OCTA will:

- a) Seek opportunities to expedite and improve the efficiency of the environmental process for federally funded projects. The OCTA Breaking Down Barriers report, approved by the Board on March 28, 2011, contains numerous examples of instances where the environmental process can be expedited and made more efficient without impairing substantive environmental requirements. MAP-21 has incorporated many of these recommendations into statute, with the requirement of implementing regulations. OCTA will monitor future regulations in this area to ensure that they effectively implement the MAP-21 statutory provisions.
- b) Seek federal funding to meet state and local environmental quality requirements, including anticipated requirements for zero emission busses, alternative fueling stations, and future greenhouse gas reduction requirements;
- c) Monitor any new federal programs seeking to address the environmental impacts of greenhouse gases to ensure that any new environmental requirements are accompanied by additional funding necessary to implement those requirements;
- d) Support legislation and federal grant programs that encourage ridesharing and related congestion relief programs for Orange County commuters.

In addition, OCTA takes the following positions with regard to U.S. departments providing federal oversight, specifically:

- e) Support efforts to work with Caltrans and the Administration to equitably resolve the ~~FHWA~~ *United States Department of Transportation* interpretation of Americans with Disability Act (ADA) compliance guidelines that retroactively require the implementation of costly curb-ramp *and level boarding* upgrades within the boundaries of federally-funded projects. According to state officials implementing these regulations on behalf of FHWA, the requirements apply even if curb-ramps are already in place but considered to be out of date according to the most recent ADA guidelines or when the project would not require ground disturbance (i.e. signal synchronization projects funded with CMAQ funds);

- f) Oppose any regulations or administrative guidance seeking to extend through administrative actions the statutory requirements of ADA;
- g) Support expedited federal review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities;
- h) Support expedited and improved federal reporting and monitoring requirements to ensure efficiency and usefulness of data and to eliminate redundant state and federal requirements;
- i) Ensure that regulations and programs implementing MAP-21 provisions regarding transit safety oversight are reasonable, as free as possible from bureaucratic burden, and do not place an unfair financial burden on OCTA operations.

IX. Employment Issues

Federal employment laws affecting OCTA include the Fair Labor Standards Act, Family and Medical Leave Act, Occupational Safety and Health Act, and the Omnibus Transportation Employee Testing Act of 1991. While significant changes to these federal laws are not anticipated during the 113th 114th Congress, OCTA's historical positions regarding labor and employment issues have included:

- a) Support income tax deductions for employees receiving employer-provided transit passes, vanpool benefits, or parking spaces currently counted as income;
- b) Oppose legislation and regulations adversely affecting the agency's ability to effectively and efficiently address labor relations, employee rights, benefits, and working conditions including health, safety, and ergonomics standards in the workplace.
- c) Support efforts to restrict the ability of the Federal Government to limit State or local efforts to reform pension benefits.