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DEPARTMENT OF TRANSPORTATION

MOBILITY ACTION PLAN (MAP) PHASE I IMPLEMENTATION STUDY
FINAL REPORT

Assessing Human Service Transportation Coordination in California: A Legal and Regulatory Analysis

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INTRODUCTION AND OVERVIEW

This MAP study task report documents the work activities associated with MAP Goal 2, Subtasks 2.1 and 2.2 of the work plan. The original request for proposal (RFP) relative to these subtasks required that the JNTC project team complete the following activities:

"…identify state and federal restrictive and duplicative laws and regulations related to human services transportation-funding programs that impede coordination and submit Findings and Recommendations to the Caltrans Project Manager; and

"…*develop a Matrix identifying duplication and conflicts among statutes and regulations funding programs, develop and recommend a mechanism for each State agency to annually review and revise the Matrix to identify strategies to ensure coordination of these programs and human services transportation at the local level.*

The project team work activities conducted and performed in development of this report included:

1. Legislative research, identification and compilation of the relevant federal and California statutes pertaining to human services transportation coordination in California;

2. Presentations, discussions and interviews with Caltrans, the MAP PAC and other study stakeholders related to the background, intent and impact of these statutes on human service coordination; and

3. Analysis of key regulatory and policy-related issues which surfaced during the study that present obstacles to improvement of public transit and human services transportation coordination in California; and

4. Strategic discussions designed to build consensus and agreement on the identified key regulatory and policy-related alternatives and strategies that provide the framework for development of the Strategic Implementation Plan (SIP).

This report documents the work activities undertaken by the project team in cooperation with Caltrans, the MAP PAC and other stakeholders to identify and assess the impacts of Human Services Coordination legislation and regulations and also details the recommended strategies that can effectively be implemented by the DMT and/or other entities in California to support and promote coordination.

METHODOLOGY

The study work plan required that the project team work "to address restrictive and duplicative laws, regulations and programs related to human services transportation-funding programs." Under the direction of Caltrans Division of Mass Transportation (DMT), guided by the Mobility Action Plan Project Advisory Committee (MAP PAC) members of the project team researched, reviewed and analyzed the relevant provisions of laws, regulations and codes for the purpose of identifying restrictive or duplicative laws that may be impeding coordination. The sources reviewed by the project team included:

- United States Code
- The Code of Federal Regulations

- The California State Constitution
- California Codes
- The California Code of Regulations and relevant case law.

Over the course of the study, a variety of issues related to key statutes surfaced that necessitated full examination relative to their potential impacts on human service transportation coordination in California.

The issues analysis conducted by the project team as an element of this task informed the development of alternatives and final recommendations on modifications and/or revisions to key coordination-related statutes and acts that could work to remove impediments to human service transportation coordination.

The project team's research findings and results were presented to the MAP PAC in the form of legislative summary briefs and PowerPoint presentations throughout the study. The legislative summary briefs are appended to this report and are also available on the Caltrans website at: http://www.dot.ca.gov/hq/MassTrans/Interagency-Coordination.htm.

The analysis of key issues originating from the initial research and the on-going dialogue with stakeholders, and the ensuing development of alternatives that could serve to address these issues provided a basis for discussion by Caltrans, the MAP PAC and other stakeholders. These discussions resulted in the formulation of the recommended strategies presented in this report.

BACKGROUND AND HISTORY OF THE RELEVANT HUMAN SERVICE COORDINATION STATUTES AND ACTS

A growing number of the transportation-disadvantaged in the United States—those persons with an age-related condition, disability, or those living below the poverty line—face a number of limiting issues, including lack of mobility because they do not have access to transportation. This lack of mobility and access to transportation is in part due to the societal shift from caring for those with disabilities and age-related conditions in institutions to individualized care in communities, and the ever-growing numbers of those of the target populations demonstrating need. In their efforts to serve the needs of the target populations, public transit and human services agencies and organizations operating in urban and rural areas, subsidize and/or offer referrals to a wide variety of specialized transportation programs.

Moreover there remain significant challenges in ensuring mobility for these "hard-to-serve" populations. To better address these challenges, government agencies, human service organizations and transportation planners have long advocated improved program coordination between the two sectors. Public transit and human service agencies and organization in the fifty (50) states and the District of Columbia have developed coordinated transportation programs for the target populations, and have achieved some varying measure of success in navigating the legal and regulatory obstacles that limit coordination, and in developing coordinated transportation projects.

To better understand both the Federal and State of California legal and regulatory environment surrounding human service coordination, the project team was tasked with identifying existing laws that may impede coordination. The following sections summarize both Federal statutes and State of California regulations and statutes relative to coordination.

Federal Statutes

This section discusses President George W. Bush's Executive Order, several key Federal laws related to coordination and details the relevant federal acts related to California programs for transportation under DMT and CHHS. A matrix of the relevant federal and state laws is shown in Appendix A.

George W. Bush, Executive Order on Human Service Transportation Coordination, EO #13330, February 2004

In February 2004, President Bush signed Executive Order 13330 which expanded the existing Coordinating Council on Access and Mobility (CCAM) by creating the Interagency Transportation Coordinating Council on Access and Mobility. The composition of the federal interagency council included the Secretary of Transportation, the Secretaries of Health and Human Services, Education, Labor, Veterans Affairs, Agriculture, Housing and Urban Development, Interior and Justice as well as the Commissioner of the Social Security Administration and the Chairperson of the National Council on Disability.

The order requires the Council to eliminate duplication and overlapping federal programs and improve coordination of federally supported transportation services. The Council also must facilitate within existing resources, access to the most appropriate, cost-effective transportation services, encourage enhanced customer access to the variety of transportation resources available, and formulate and implement administrative, policy and procedural mechanisms that enhance transportation services.

This order was formulated in response to a U.S. Government Accountability Office report identifying coordination obstacles between the over sixty (60) federal human service transportation programs.[1] The order jump-started federal efforts to overcome barriers to coordination and began a more focused effort to help states and local agencies improve coordination, which is managed under a Federal Transit Administration (FTA) umbrella called the “United We Ride” Program. [2]

Executive orders are generally used to direct federal agencies and officials as their agencies implement congressionally-established law, and as opposed to executive orders issues by state Governors, are legally binding directives to federal agencies. While the executive order on coordination has no direct legal affect on state statutory law, it does influence how federal agencies administer their grant funding programs, as well as, how these programs must be implemented at the state level. Thus, the executive order alone does not directly require states to coordinate, but certain federal funding programs require evidence of coordination before grants can be awarded.

SAFETEA-LU, 49 USCA § 5310, 5316, 5317

In 2005, Congress passed the highway funding reauthorization bill, known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act–A Legacy for Users (SAFETEA-LU). The bill authorized $286.5 billion in federal funding for federal aid highway, transit and safety programs through 2009, and granted $295 billion in contract authority. The bill increased the average annual federal funding to states for highway projects by 30.3 percent above the amount in the previous transportation bill and for transit funding to states by approximately 45 percent. SAFETEA-LU authorized $241 billion for highways and $52.6 billion for transit programs and

reauthorized several programs that serve the transportation disadvantaged. Two key modifications in SAFETEA-LU were as follows:

1. A new funding eligibility requirement for the development of coordination plans in order to be eligible to receive funding under Sections 5310, 5316 and 5317 of the Act; and

2. Use of federal non-DOT program funding to meet matching requirements for coordinated transportation services supported under the Act.

SAFETEA-LU reauthorized the Transportation for Elderly Persons and Persons with Disabilities Act[3] (49 U.S.C 5310), which was originally enacted in 1975 and has been important in filling gaps in the transportation of the elderly and the disabled not covered by the Americans with Disabilities Act (ADA).[4] The 5310 statute declares as national policy, that elderly persons and individuals with disabilities have the same right to access transportation services as other persons, and authorizes federal capital assistance grants to meet the special needs of elderly persons and persons with disabilities where public mass transportation services are unavailable, insufficient or inappropriate.

The 5310 program is administered by the Federal Transit Administration (FTA) and provides formula funding to states to assist private non-profit groups in meeting the transportation needs of the elderly and persons with disabilities when the needed transportation service is unavailable, insufficient, or inappropriate.[5] Funds are allocated based upon each state's share of the target populations.

Funds are obligated based on an annual program of projects which are included in a statewide grant application that each state prepares and submits to FTA. Examples of eligible activities are capital expenses that support transportation services that meet the special needs of older adults and persons with disabilities, "pilot project" operating expenses in certain states and state program-related administrative expenses.

It is the responsibility of state agencies to ensure that local applicants and project activities are eligible and in compliance with federal requirements, that private not-for-profit transportation providers have an opportunity to participate as feasible, and that the program provides for coordination of federally-assisted transportation services, including coordination of funding from other federal sources. Once FTA approves the initial application, funds are available for state administration of its program and for allocation to individual sub-recipients within the state.

The California Department of Transportation (Caltrans) is the recipient of funding. Eligible sub-recipients are private: non-profit organizations, governmental authorities where no non-profit organizations are available to provide service and governmental authorities approved to coordinate services. The state also certifies that projects are derived from coordinated plans, monitors local projects, and oversees project audit and closeout activities.

The Job Access and Reverse Commute (JARC)[6] program (Section 5316), was reauthorized by SAFETEA-LU and originally enacted in 1998. This program addresses the employment transportation challenges of low-income individuals and welfare recipients. Many entry-level jobs are located in suburban areas, while low-income or welfare recipients live in inner city or urban areas, resulting in employment access difficulties.[7] Many entry-level jobs require the employees to work at night or on weekends when transportation options are reduced or nonexistent.[8] Employment-related trips can be complicated for low-income persons, involving

multiple stops for multiple purposes, such as changing modes of transportation or dropping children off at childcare or at school.[9]

To assist in these situations, JARC funds can be used to subsidize the cost of adding additional bus, train, carpool and van routes; subsidizing the cost of the purchase of a non-profit van or bus for taking eligible recipients to and from work; and for aiding in the operation of transit service to and from suburban employment. States, local governments, nonprofit organizations, and local transportation providers can apply for funding through the JARC program. Eligible activities include: capital planning and operating expenses for projects that transport low income individuals to and from jobs and activities related to employment, and for reverse commute projects.

Projects must be competitively selected from locally developed coordinated public transit-human services transportation plans. The competitive selection process is to be conducted by a "Designated Recipient" (an entity designated by the state governor, responsible local officials, and publicly owned operators of public transportation) or any agency acting on behalf of a Designated Recipient in urbanized areas with a population over 200,000.[10] In California, Caltrans is the designated recipient for rural areas. Large and small urban areas regional entities are appointed as designated recipients. SAFETEA-LU changed the manner in which program funds were previously allocated, from a discretionary approach to a formula, and includes 20 percent set-aside for rural areas.

The New Freedom Program (49 U.S.C.A. § 5317) was newly created by SAFETEA-LU.[11] The impetus for this program came out of President Bush's Executive Order 13217 (2004), which, in addition to the provisions described above, states that "[t]he United States is committed to community-based alternatives for individuals with disabilities and recognizes that such services advance the best interests of the United States" and directs the federal government to assist states and localities to swiftly implement the decision of the United States Supreme Court in *Olmstead v. L.C.*[12] The order instructs six federal agencies to "evaluate the policies, programs, statutes and regulations of their respective agencies to determine whether any should be revised or modified to improve the availability of community-based services for qualified individuals with disabilities." Even though the Department of Transportation was not mentioned in the order, it joined the implementation effort, along with Veterans Affairs, the Small Business Administration, and the Office of Personnel Management.

The New Freedom formula grant program provides additional tools to overcome existing barriers facing Americans with disabilities who seek integration into the work force and full participation in society. New Freedom funds new public transportation services and alternatives beyond those required by the Americans with Disabilities Act (ADA).

Eligible recipients include private nonprofit organizations, state or local governmental authorities, and operators of public transportation services including private operators. Activities that could be funded under the program include, but are not limited to:

- Purchasing vehicles and supporting accessible taxi, ride-sharing, and vanpooling programs; including staff training, administration, and maintenance,
- Providing paratransit services beyond minimum requirements (3/4 mile to either side of a fixed route), including for routes that run seasonally,
- Making accessibility improvements to transit and intermodal stations not designated as key stations.

- Supporting voucher programs for transportation services offered by human service providers.
- Supporting mobility management and coordination programs impacting public transportation providers and human service agencies providing transportation. These activities are considered a capital cost and are defined as short-range planning and management activities.[13]

The FTA modified the New Freedom program to fund fixed route or demand responsive transportation services, provided that:[14]

1. The service is identified in the locally developed, coordinated public transit-human services transportation plan;
2. The service is designed to meet the needs of individuals with disabilities;
3. The service removes barriers to transportation and assists persons with disabilities with transportation;
4. The service was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP); and
5. The service is not designed to allow an agency to meet its obligations under the ADA or the DOT ADA implementing regulations.

On June 18, 2009 The House of Representatives Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) and Ranking Member and John Mica (R-FL) announced their outline for the next surface transportation authorization.[15] The new authorization would combine the Job Access and Reverse Commute, New Freedom Initiative and Elderly and Disabled Program, into a single initiative called the Coordinated Access and Mobility Program or CAMP. The program would distribute sixty (60) percent of funds to designated recipients in large urban areas, twenty (20) percent to small urban areas, and twenty (20) percent to rural areas, under a single application. Under section 5310, a large urban area must conduct a competitive area wide solicitation process and the small urban and rural areas must conduct a competitive statewide solicitation process. CAMP institutes performance measures that would hold grantees accountable by requiring the submittal of annual plans and establishes minimum programmatic allocations that each recipient must make if they fail to meet performance goals of the program. The FTA can withhold individual project approval for recipients if they fail to submit an annual plan that provides for the achievement of performance targets.

<u>Americans with Disabilities Act of 1990 (ADA)</u>

The Americans with Disabilities Act of 1990[16] gives civil rights protections to individuals with disabilities similar to protections given to individuals on the basis of race, national origin, sex, age, and religion. It guarantees equal opportunity for individuals with disabilities to access public accommodations, to compete for employment opportunities, to use transportation facilities, state and local government services and telecommunications.

Title I of the act prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against persons with disabilities, including job applicants, in all employment practices. An individual is considered to have a disability if he or she has a physical or mental impairment that substantially limits one or more major life activities, has a record of impairment, or is regarded as having an impairment. Employers with 15 or more employees are required to comply with the act's requirements.

Title II of the act prohibits discrimination against individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments. This includes public and private entities that provide public transportation. In regards to private entities, the act provides that "no individual shall be discriminated against on the basis of disability in the …enjoyment of … public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce."[17]

Title II requires public entities:

- To purchase or lease new buses, rapid rail vehicles and new light rail vehicles for regular transit services that are readily accessible to and usable by persons with disabilities, including those who use wheelchairs.

- That provide fixed route service to also provide paratransit and other special transportation services to persons with disabilities, including those who use wheelchairs. The service has to be comparable to regular transit services for persons without disabilities, or is comparable in response time to regular transit services provided to persons without disabilities.

- To provide paratransit and special transportation services within their service areas.

- That purchase or lease new vehicles for a public demand responsive transit service ensure that these vehicles are readily accessible to and usable by persons with disabilities, including those who use wheelchairs.

Title II requires private entities primarily involved in fixed route transportation:

- That purchase or lease a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) ensure that the vehicle is accessible and usable by persons with disabilities, including those who use wheelchairs.

- An over-the-road bus company that has a fixed route that purchases or leases new vehicles must ensure that they are accessible, ensure that half of their fleet is accessible by October 2006, and ensure that their entire fleet is accessible by October 2012.[18] Small over-the-road bus companies that provide a fixed route must ensure each new vehicle purchased is accessible or provide equivalent service to passengers with disabilities.[19]

Title II requires private entities primarily involved in *demand responsive transportation*:

- That purchase or lease a new vehicle (other than an automobile, a van with a seating capacity of less than 16 passengers, including the driver, or an over-the-road bus) ensures that the vehicle is accessible and usable by persons with disabilities, including those who use wheelchairs.

- Exception: Compliance is not required if the new vehicle is to be used for demand response services, and the company provides an equal level of service to the disabled as they do the general public.

- An over-the-road bus company must provide service in an accessible bus to passengers with disabilities on a 48-hour advance notice basis. Small over-the-road bus companies must provide accessible service to passengers with disabilities on a 48-hour advance notice basis, but are not required to fundamentally alter reservation practices or displace other passengers in order to meet these requirements.[20]

Older Americans Act (OAA)

The OAA[21] was enacted in 1965 to promote the well being of older adults and help them remain independent in their homes and communities. To achieve its purpose, the OAA set up a federal program to distribute funds to states using a formula based on the state's share of people over 60. In the early years, the OAA's primary focus was on organizing and delivering community-based services by coordinating with state level agencies. However, due to continued growth in the population of older Americans, the programs funded by the act have changed to reflect a broad community-based long-term care structure which includes senior centers, volunteer programs and recreational activities. All individuals over 60 are eligible to participate, but states are required to target those with the "greatest social or economic need," since funding levels restrict the number of people who can be served.[22] The OAA also established the Administration on Aging (AoA), within the Department of Health and Human Services, which works to bring awareness about the needs of older Americans to other federal agencies, organizations, groups, and the public .

The OAA consists of seven extensive titles that incorporate a series of formula-based and discretionary grants that are administered by the AoA[23]. Transportation is directly funded under Title III-B and Title IV.[24]

Title III-B is the primary source of transportation funding under the OAA. It provides grants to states for transportation services "to facilitate access to supportive services or nutrition services," and services provided by an area agency on aging (AAA) in conjunction with local transportation service providers (or other transportation agencies) that results in better transportation services to older individuals.[25]

Title III-B also provides grants to local AAAs for "senior opportunities and services," which helps meet the needs of low-income older individuals for "referral service to health (including mental health), employment, housing, legal, consumer, transportation, and other services."[26]

Title IV allows the AoA to issue "grants or contracts to non-profit organizations to improve transportation services for older individuals."[27] The non-profit organization has to use the funds to carry out demonstration projects or provide technical assistance to local transit providers, AAAs, senior centers, and local senior support groups to encourage use of local transportation systems by older individuals. Demonstration projects can include improving access to transportation services, developing techniques to improve access to transportation services, preparing information on transportation options and resources, developing best practice models for providing comprehensive integrated transportation services, or providing special services to link older individuals to transportation services.[28]

In California, the Older Californians Act requires local area agencies on aging to operate in compliance with the OAA and create a plan that details how to provide better services to the elderly through improved transportation, referral, outreach, and advocating.[29] Also known as the Mello-Granlund Older Californians Act (AB 2800, 1996), this act moved the principal focus for the delivery of services from the state to the local level. There are thirty-three (33) area agencies on aging designated by the California Department of Aging as the local planning services agencies. A bill currently under consideration by the California Assembly would require the local agency on aging to incorporate the Elder Economic Security Standard Index (EESI).[30], The bill would require the local AAA to identify which elders live at or below that index, which "measures how much income is needed for a senior with a given life situation and geographic location to adequately meet his or her basic needs – without public or private assistance.".[31]

Medi-Cal and the Medicaid Transportation Program

Medicaid is a federal-state partnership that was created in by Congress in 1965 (Title XIX of the Social Security Act)[32] to finance health care for the nation's low-income persons. Medicaid is an optional program, where states can choose to participate; however all 50 states and territories participate and administer their own Medicaid programs. Today, Medicaid has evolved to become three programs in one: 1) A health financing program for low-income parents (mostly women) and children; 2) A health financing program for people with significant disabilities; and 3) A long-term care financing program for low-income elderly people. Without Medicaid, the majority of these people would be uninsured.[33]

Transportation is important for Medicaid beneficiaries to ensure access to medical treatment and for other purposes.

According to the Centers for Medicare and Medicaid Services (CMS) rule on Medicaid transportation, a state plan must "specify that the Medicaid agency will *ensure necessary* transportation for recipients to and from providers…" (emphasis added).[34] States have great flexibility in meeting the mandate of assuring medical transportation. To do so, states look to contracting with transportation providers, using public transportation, helping clients obtain transportation by coordinating with other programs, or providing reimbursement directly to clients for the services beneficiaries locate on their own.

Medicaid Program Rule[35]

With the enactment of the Deficit Reduction Act of 2005 (DRA) states will no longer be required to obtain a section 1915(b) waiver to provide non-emergency medical transportation (NEMT). (This waiver allows the state to operate its Medicaid program without meeting requirements for statewideness, comparability of services, and freedom of choice of provider. This would allow states to mandate Medicaid enrollment into managed care, utilize a "central broker," use cost savings to provide additional services and limit the number of providers for services.) [36] Under the DRA, a state will be *allowed* to use a NEMT brokerage program when providing transportation as medical assistance under the state Medicaid plan, rather than having to get the waiver.[37] Therefore, the DRA gives states greater flexibility in facilitating the provision of non-emergency medical transportation. The broker uses public transit and its fare schedules, and uses trip verification for NEMT services.

The provisions of the rule are as follows:

- Allows brokers to provide for transportation services that include wheelchair vans, taxis, stretcher cars, bus passes and bus tickets.[38]

- Allows the Secretary of Transportation to allow for the use of other forms of transportation, such as air transportation in states with significant rural populations and geographic distances.

- Creates a competitive bidding process for selecting the broker. The state has to evaluate the broker's experience, performance, references, resources, qualifications, and cost.

- Declares the contract between the broker and the state must include oversight procedures so that the state can monitor beneficiary access, complaints, and to ensure that the broker's personnel are licensed, qualified, competent and courteous.

- Requires that the broker must be an independent entity, in that the broker cannot provide transportation under a contract with the state. The broker also cannot refer or subcontract to another transportation provider with which it has a financial relationship.

    - A financial relationship includes any direct or indirect ownership or investment interest in the entity that furnishes designated health services and any compensation arrangement between such an entity and the physician or an immediate family member of the physician.

- Provides an exception for a non-governmental broker that provides transportation in a rural area where there is no other qualified provider available; when the necessary transportation provided by the non-governmental broker is so specialized that no other qualified provider is available; or when the availability of qualified providers other than the non-governmental broker is insufficient to meet the existing need.

- Provides that if a governmental entity is awarded the brokerage contract it can subcontract with a government-owned or controlled transportation provider if the broker:

    - Is a distinct governmental unit, and the contract could not include payment of costs other than those unique to the distinct brokerage function; and,

    - The broker would have to document, after considering the specific transportation needs of the individual, that the government provider is the most appropriate, effective, and lowest cost alternative for each individual transportation service; document that for each trip, and the Medicaid program is paying no more than what the general public is charged.

- Gives the Secretary the authority to add any other medical care which can be covered by the state.

CMS has provided states with a letter containing guidance on these provisions and the implementation of the DRA, and an associated state plan amendment template for use by states to modify their Medicaid State plan if they choose to implement the option of using a

transportation broker or brokers as spelled out by the rules above. The rule estimates that template takes 12 minutes to complete and costs $50. Once approved, the state will not need to resubmit the template, unless it materially changes the brokerage program. At this juncture, California does not have a NEMT brokerage program.

California Statutes

The Transportation Development Act (TDA) and the Social Services Transportation Improvement Act (SSTIA) are provide the legal and funding basis to support public transit and human service coordination efforts and activities undertaken at the state, regional and local levels in California. The provisions and requirements relative to these two acts are summarized below.

Social Services Transportation Improvement Act (SSTIA)[39]

The Social Service Transportation Improvement Act (SSTIA) was enacted as AB 120 in 1979 to "improve transportation service required by social service recipients by promoting the consolidation of social service transportation services." By consolidating these services, the legislature intended that transportation service providers would achieve cost efficiencies by purchasing necessary equipment together in bulk; training drivers to lower insurance and other costs; having an efficient centralized dispatching system; having a centralized maintenance system; having centralized administration of social service programs to eliminate duplication; and identifying and consolidating existing funding sources for more effective and cost-efficient use.

The SSTIA requires regional transportation planning agencies or a county transportation commission to adopt and submit an action plan that identifies deficiencies in existing services and realizes transportation benefits possible through coordination and/or consolidation of services. The action plans had to include, but were not limited to, the following:

1. Designation of a consolidated transportation service agency (CTSA) within the geographic area of jurisdiction of the transportation planning agency. If improved coordination of all services was demonstrated within the geographic area, the regional agency was permitted to designate more than a single agency as a CTSA.

2. Identification of the social service recipients to be served, of funds available for use by the consolidated or coordinated services, and an orderly strategy and schedule detailing the steps required to develop the financial program and management structure necessary to implement consolidated or coordinated services.

3. Measures to coordinate the social service transportation services with existing fixed-route service of public and private transportation providers.

4. Measures to ensure that the objectives of the action plan are consistent with the legislative intent of the SSTIA.[40]

According to the CalAct e-book on CTSAs:

> The purpose of the Act was to improve the quality of transportation services to low mobility groups while achieving cost savings, lowered insurance premiums and more efficient use of vehicles and funding resources. Designation of CTSAs and implementation of other aspects of the Act were seen as a flexible mechanisms to deal with the issues of inefficient and duplicative social service transportation programs that proliferated due to a dramatic increase in the number of social service programs offered by government agencies and private non-profit organizations to meet their clients' mobility needs.[41]

Transportation Development Act (TDA)[42]

The basis for state financial assistance to public transportation in California is provided by the Transportation Development Act enacted in 1971 declaring: "[p]ublic transportation is an essential component of the balanced transportation system which must be maintained and developed so as to permit the efficient and orderly movement of people and goods in the urban areas of the state…" and designed to "encourage maximum utilization of …all the people of the state, including the elderly, the handicapped, the youth, and the citizens of limited means of the ability to freely utilize the systems."[43] The TDA consists of nine articles in the California Public Utilities Code, which makes it lengthy in both size and detail. The TDA provides funding to be allocated to transit and non-transit related purposes that comply with regional transportation plans.

The TDA provides two funding sources: 1) Local Transportation Fund (LTF), which is derived from a ¼ cent of the general sales tax collected statewide; and, 2) State Transit Assistance fund (STA) derived from the statewide sales tax on gasoline and diesel fuel.

The transportation planning agencies in all geographic areas of the state establishes the processes for filing, evaluation and prioritization of all claims for funding under TDA, and determines the allocations for competing claimants. A transportation planning agency is typically a council of governments, a metropolitan planning organization or a similar entity. All transit operators and city or county governments responsible for providing transit services in their area can file claims only for money that was apportioned to their area.

CTSAs (designated by the SSTIA) are funded under articles 4.5 and 6.5 of the TDA. Under article 4.5, five percent of the funds allocated to the transportation planning agencies may be requested by CTSAs for "community transit service," which has to be used to provide services to the seniors and persons with disabilities. Funds can be transferred from the transportation planning agency to the CTSA unless it finds that there are unmet transit needs in its jurisdiction. Article 4.5 also prohibits the use of funds so that a claimant does not receive a private gift of public funds, that is, TDA funds cannot be used to buy vehicles for a private agency. A TDA recipient also cannot file claims in excess of its capital costs, which would prevent a private CTSA from making a profit. However, a public CTSA would only be restricted to the extent of its service contract.

Article 6.5 sets forth rules for funding both transportation planning and mass transit. Revenue from sales and gas taxes is deposited into the Public Transportation Account (PTA) of the state treasury from which funding is allocated to DMT and county transportation planning agencies. The funding allocation is based on each county's ratio of population to the total population of the state, and on its share of transit fare revenue. Half of the PTA funding allocated to DMT has to fund state transit programs, including CTSAs (among others).

The TDA also creates Social Services Transportation Advisory Councils.[44] The councils consist of:

- A potential transit user over age 60
- A potential transit user who is handicapped
- Two local social service providers for seniors
- Two local social service providers for the handicapped
- A local social service provider for persons of limited means
- Two representatives from the local CTSA

Each Social Services Transportation Advisory Council participates annually in the identification of unmet transit needs in its jurisdiction; annually reviews and recommends action to the transportation planning agency; and advises the transportation planning agency on any other major transit issues, including coordination and consolidation of specialized transportation services.

In addition at the state level, the DMT established a TDA Working Group comprised of Caltrans staff and transit stakeholders. The mission of the working group is "to provide a forum, with balanced representation, where issues and concerns relating to the TDA can be identified and actions initiated to address those issues and concerns." The working group seeks to create a mutual understanding of the TDA's laws and processes; provide improved communication and working relationship between the state and its regional partners; and, identify, explore, advocate, and implement program improvements. The working group has assisted DMT staff to update the TDA Handbook (also known as the "Purple Book"), the definitive resource concerning the TDA.

ISSUE IDENTIFICATION AND ANALYSIS

Several key legislative and policy-related issues surfaced repeatedly throughout the study. These issues arose from the findings of the project team's legislative research and analysis, MAP PAC meeting discussions throughout the study, and findings and recommendations from the stakeholder involvement process, and are as follows:

1. The Unmet Needs Process
2. Medi-Cal's NEMT Program
3. The Role of Consolidated Transportation Service Agencies (CTSAs)
4. Insurance Liability Impacts
5. State-Level Coordination Oversight

The implications of these five (5) key issues relative to coordination were analyzed by members of the JNTC project team in order to develop a number of alternatives that could be implemented at the state level to mitigate negative impacts to public transit and human services transportation coordination efforts.

In an effort to discuss and ultimately agree upon a "short list" of policy-related strategies that could be implemented by the state, and would serve as the basis for development of the Strategic Implementation Plan (SIP), two strategic discussions were conducted during the February and April 2010 MAP PAC meetings. To facilitate these discussions the project team developed an initial "menu" of potential alternatives for consideration by Caltrans, the MAP PAC and other interested stakeholders (e.g. CTSAs, MPOs/RTPAs, etc.). As a result of these meetings a number of policy-related recommended strategies were formulated.

A summary of the key issues and the associated background and analysis of each of are detailed below. In addition, the final recommended strategies formulated during the strategic discussions, follows the analysis of each of the issues.

1. <u>The Unmet Needs Process</u>

<u>Background</u>

The unmet needs process is set forth in Article 8 of the TDA.[45] It addresses primarily rural counties and the rural parts of more populated counties. The California Government Code[46] specifies that counties, cities, and transit districts in counties with a population of 500,000 or less (according to the 1970 census) can file requests for funding with transportation planning agencies for local streets and roads, pedestrian and bike projects, passenger rail service and capital improvements, and payments to entities that are under contract with a county, city, or transit district for public transportation or transportation services.[47] If the county has a population over 500,000 it has to commit all of its TDA funding to transit. If the county now has a population greater than 500,000, but had less than that in 1970, it still has to go through the unmet needs process unless it's decided that all of the funds go to transit.[48]

California Senate Bill 716, recently signed by the Governor, would significantly affect the unmet needs process in the state. The bill requires counties that had a population of less than 500,000 in 1970 but now have a population over that to appropriate their TDA Article 8 funds to transit needs only in their urban areas. The counties are still required to go through the unmet needs process for rural areas unless funding there is allocated to transit. The law exempts counties with a population of less than 100,000 and delays its application until July 1, 2014. The law also

exempts Ventura County and requires it to submit "a report to the Legislature analyzing options for organizing public mass transportation services in the county and for expenditure of revenues in the local transportation fund, along with a recommended legislative proposal"[49] by December 31, 2011. If the legislative proposal is not enacted by the 2011 - 2012 Regular Session, then the local transportation funds would be available solely for transit purposes.

Before making an allocation of TDA funds, the Transportation Planning Agency has to consult with its Social Service Transportation Advisory Council (SSTAC); identify transit needs of the jurisdiction; and, identify unmet transit needs of the jurisdiction that are reasonable to meet. It must also hold at least one public hearing to solicit comments on any unmet transit needs that may exist.[50] It is the transportation planning agency's responsibility to define 'unmet needs' and 'reasonable to meet.'[51]

To receive funding under the TDA a claimant must achieve a minimum farebox recovery ratio which is " a ratio of fare revenues to operating cost at least equal to the ratio it had during 1978/1979, or 20 percent if the claimant is in an urbanized area, or 10 percent if the claimant is in a non-urbanized area, whichever is greater."[52] If the claimant had a ratio greater than those requirements during 1978/1979 it is required to have a ratio larger than what it had during that time period. A transportation planning agency *may* set their farebox recovery ratio to not less than 15 percent in a county with a population of 500,000 or less, if the operator provides services in an urbanized area (which also has to participate in the unmet transit need process) and the agency documents the reasons for lowering the requirement. Also, the transportation planning agency may set the farebox recovery ratio at any level they desire if the service is for the seniors and persons with disabilities. A claimant may receive a two-year exemption for services provided to new areas or along new routes, and can also receive an exception for not meeting the farebox recovery requirement their first time. If the claimant fails to meet the farebox recovery requirement, its funding will be reduced by the amount its required fare revenues have fallen short of the standard.

Currently, the only option available to change a transportation planning agency's local definitions is to either secure the agency's agreement to change them, to bring suit, or through engagement of the appeals process detailed in the TDA.[53]

Ultimately, the transportation planning agency has to adopt a resolution that finds one of the following:[54]

1. There were no unmet transit needs;
2. There were no unmet transit needs that are reasonable to meet; or
3. There are unmet transit needs, including needs that are reasonable to meet.

Unmet transit needs (including those that are reasonable to meet) are to be funded by TDA before any funding is provided for streets or roads. If there are no unmet transit needs or they are unreasonable, the transportation planning agency may allocate the funds to a county or city for streets or roads.[55] According to the statute, "the fact that an identified transit need cannot be fully met based on available resources shall not be the sole reason for finding that a transit need is not reasonable to meet. An agency's determination of needs that are reasonable to meet shall not be made by comparing unmet transit needs with the need for streets and roads."[56]

The allocation to the transportation planning agency cannot exceed 50 percent of the amount required to meet the city or county's total expenditure for streets and roads.[57] The 50 percent provision does not apply to cities or counties under contract for public transportation or for

transportation services for any group, to a city or county that has a population of less than 5,000, or for funds allocated for local streets and roads.[58]

The decision to fund or not to fund an unmet transit need has to be filed within 30 days after the local agency makes its decision, or after the Business Transportation and Housing Agency Secretary has reviewed the decision pursuant to Section 99242, whichever is later.[59]

DMT's role in the process is fairly minor. Once the process is complete, DMT requires the transportation planning agency to provide:[60]

- A copy of the SSTAC hearing notice and proof of publication;
- A notice published 30 days before the hearing date;
- A resolution or minutes documenting the unmet needs definitions; and
- A resolution by the jurisdiction adopting its unmet transit needs findings.

If one or more of these steps is omitted, DMT requests that the step be completed or the process begins again.[61]

Issue

The unmet needs process required by the TDA has been the subject of considerable MAP PAC discussion over the course of the study. MAP PAC members and other stakeholders have raised issues about the mobility challenges faced by members of the target populations in some regions in the state as a result of regional transportation planning agencies' interpretation of TDA unmet needs requirements and subsequent allocation of TDA funds.

Some MAP PAC members expressed concern that the TDA unmet needs process requirements are subject to broad interpretation by transportation planning agencies, resulting in decreased funding for identified local transit needs in some geographic regions. Members indicated that Article 8 of the TDA allows local transportation planning agencies to define the critical terms of TDA law, such as "unmet needs" and "reasonable to meet" offering limited means of recourse through state channels if the local definitions developed are viewed by stakeholders as inequitable.

Some other MAP PAC members however, expressed the view that the unmet needs process does achieve equitable results in relationship to addressing transit needs in their counties. These members maintain that in the regions they represent, all unmet needs are deemed to be reasonable to meet. This interpretation of the statute ensures that all TDA funds are allocated and expended on transit needs. The divergence of results in implementation of the unmet needs process and interpretation of terminology raises the question of whether the intent of TDA legislation is being met.

The legislative intent of the TDA is expressed extensively in sections 99220, 99221 and 99222. The essence of these sections is that the Legislature desires to improve public transportation services and encourage regional public transportation coordination.[62] Does the difference in unmet needs findings at the regional level imply that the unmet needs process should be amended to allow for greater state oversight to ensure that the legislative intent is met? If so, how should the process be amended?

Analysis

MAP PAC members and other stakeholders have indicated that although the state's unmet needs general process requirements may have been adhered to, the findings of the process are not consistent throughout the state. Some stakeholders participating in the MAP study who also work in the transportation community view the unmet needs process as a mechanism for local officials to narrowly define 'unmet needs' and 'reasonable to meet,' which results in use of TDA funding for primarily streets and roads purposes. Others view the process as fair and believe that local officials adequately address the transit needs of their communities. Several counties adopt resolutions indicating that all unmet transit needs are reasonable to meet, thereby allowing all TDA funds to go to local transit needs.[63]

The issue for many is that the transportation planning agencies have the authority to define 'unmet transit needs' and 'reasonable to meet,' and can also decide, whether or not a request meets the local definition. Stakeholders are also of the opinion that differences in the definitions fuel inconsistencies in the final unmet needs determination, creating significant unpredictability for transit operators relative to receipt of TDA funding revenues.

Unmet needs definitions across the state vary in length and complexity.[64] For example, San Benito County defines unmet transit needs as follows:

> "*Unmet needs are defined as expressed or identified needs of a significant segment of the community for public transportation services to meet basic mobility needs which are not currently being met through existing transit services or other means of transportation. Included, at a minimum, are those public transportation or specialized services that are identified in the Regional Transportation Plan, Short Range Transit Plan and/or Transit Development Plan, which have not been implemented or funded*."[65]

San Benito County also imposes a threshold on what constitutes an unmet transit need, and if the service request fails to meet the criteria, it cannot be considered an unmet transit need. To meet the threshold requirement and be considered an unmet transit need, the service request has to: 1) fill a gap in transit service or be in the Regional Transportation Plan; 2) have broad-based community support; 3) be a current, rather than a future need; and 4) not be operational in nature, that is, a minor route change or bus stop change. The majority of California counties impose similar threshold criteria on unmet needs requests.

On the other hand, another county concisely defines an unmet transit need as "…all essential requests by transit dependent persons for which there is no other available means of transportation."[66] Ventura County requires unmet transit needs to have substantial community input through the community meeting process, or be included in: the short range transportation plan, in ADA plans, in other area/local paratransit plans, and in the regional transportation plan. In addition, unmet needs must be those that have not been implemented or funded.[67] In its report, Ventura County lists each request, determines whether it is an unmet transit need and then whether or not it is reasonable to meet. The requests that are approved meet or exceed the threshold to be considered an unmet need, and are supported by a large number of stakeholders. In this instance, valid unmet needs requests have the potential to be dismissed if sufficient community support is not demonstrated.

Many counties impose a six to seven category review to determine a valid unmet transit need. For example, for an unmet transit need to be reasonable to meet in Calaveras County it has to

be 1) financially feasible; 2) cost effective; 3) have community acceptance; 4) be equitable; 5) have an impact on the entire transit system; 6) have operational feasibility; and 7) have a service provider available who will meet the unmet need. Another county briefly defines it as "[a]ny unmet transit need that can be met, in whole or in part, through the allocation of additional transit revenue and be operated in a cost-efficient and service-effective manner, without negatively impacting existing public and private transit options."[68]

Consistent with TDA law, the majority of counties also require that unmet needs requests must have the ability to meet the TDA farebox recovery ratio requirement in order to be considered reasonable to meet. Most requests for services cannot meet this requirement. Even though the farebox recovery ratio has exceptions for new routes or services to new areas, an analysis of the unmet needs process in a number of counties show that the majority of new service requests reviewed are typically deemed not reasonable to meet because they cannot meet the ratio. In Madera County twenty-four (24) percent of its unmet needs requests were not approved because they could not meet the farebox return ratio.

The farebox requirement is intended to allow funding for the most productive, non-duplicative transit services. For example, Madera County turned down a late night route to a casino because it would only recover 4%. Nevertheless, it seems to also dispose of new services or routes that could meet the farebox ratio requirement if given time.[69] For instance, some residents in Chowchilla wanted a connecting route to Merced, but because the farebox recovery was only 4%, and the new route had the potential to have a negative impact on the existing Chowchilla Area Transit Express farebox ratio, bringing the ratio below ten (10) percent the connecting route to Merced was not approved.

The Legislature did not define 'unmet needs' or 'reasonable to meet'. Defining those terms are left to the discretion of the local transportation planning agencies. A scan of unmet needs reports statewide suggests that many unmet transit needs meet the 'reasonable to meet' criteria used to evaluate unmet needs requests. For example, during Calaveras County's FY2008 - FY2009 unmet needs evaluation, a total of twenty-six (26) unmet transit needs requests were reviewed, and only two were judged reasonable to meet. These two requests included an on-line request form for unmet needs, and a schedule modification for buses to the government center in San Andreas. It should also be mentioned that the vast majority of the unmet needs requests in Calaveras County (twenty-one (21) out of twenty-four (24)) were found not reasonable to meet because of financial feasibility. The county defines financial feasibility as: 1) not causing an operator expenses in excess of the maximum allocated by the TDA, STA and other federal grants; and 2) would allow the operator to meet the required farebox recovery ratio of 10%. Another evaluation criterion includes the requirement that any transit expansion has to be monitored and evaluated after six months of operation.[70]

Although the unmet needs process does not fund coordination projects directly[71] the process has an indirect affect on coordination within communities. For example, some unmet needs requests may necessitate a service connection between two or more transit agencies, or for a transit stop at or near a local hospital. Our research showed that a majority of these types of service requests have not been approved due to financial feasibility-related reasons. Financial feasibility is commonly cited as a reason for denial of service requests because the regional agency simply cannot afford to fund the full cost of new services and also because the potential demand for the service does not demonstrate that the farebox recovery requirement can be met.

Public access to unmet needs hearings was also cited as an issue. One MAP PAC member indicated that hearings in their county have been held during hours after bus services have ceased to operate for the day effectively precluding those reliant on these services the opportunity to participate in the hearings. However, in other areas it has been reported that in order to accommodate those who have difficulty attending these hearings, some counties allow submission of comments prior to the hearing so that all input is included.

Unmet Needs Recommendations

Alternative #1 – Strategic Discussion

Provide Greater Access to Information for Public Transit and Human Service Agencies and the Public on the Unmet Needs Process. There is a need to provide more information to agency stakeholders and the public about the unmet needs process. Stakeholders have commented that there appears to be limited recourse available to individuals and organizations who are unsatisfied with the results of the annual local unmet needs process. This suggests a general lack of knowledge about unmet needs process, funding decisions made by regional agencies, and the appeals process. The unmet needs appeals process allows a claimant to file a notification with the Business Transportation and Housing Agency Secretary who then conducts an investigation and evaluation into the claim.[72] The Secretary's finding in this process is final.[73] Providing information to agency stakeholders and the public about the regional/county unmet needs will increase understanding and participation in the process.

Recommended Strategy

Caltrans DMT should work with regional planning agencies to establish website linkages between the state and regional planning agency websites/pages to provide access to information on unmet needs hearings and the associated information on the local process (e.g. local “unmet needs” and “reasonable to meet” definitions, service requests, unmet needs hearings findings, appeals process, etc.) at the regional level to stakeholder agencies/organizations and the public. This recommendation augments Caltrans efforts in the facilitation of statewide information sharing by providing greater access to information relevant to the agency’s plans, projects and programs.

Alternative #2 – Strategic Discussion

Establish a Requirement for SSTAC or Other Designated Entity Review of Unmet Needs Hearing Findings Prior to Final RTPA Determination. There is an opportunity to strengthen the unmet transit needs process by requiring that local social services agencies have more significant involvement in unmet transit needs decision-making review. Conceivably, the SSTAC would review the regional transportation planning agency’s staff recommendation for consistency with local unmet needs provisions and reasonable to meet definitions, state requirements and TDA regulations, and would work cooperatively with the regional planning agency staff to develop recommendations for consideration and approval by the regional agency governing body. The TDA statute already requires that SSTAC review and make recommendations on unmet needs to the regional transportation planning agency. However, the timing of this review by SSTAC is currently unspecified. It is unclear whether SSTAC reviews regional agency staff recommendations before or after they are developed and published, or after approval by the governing body. Inserting a more formalized local “review and comment” exercise by the SSTAC in concert with the regional agency staff review, ensures consistent broad-based consideration by impacted transportation agency and human service organization

representatives and their constituents, and ensures that their collective input is officially documented and understood by regional agencies prior to their final determination. This provides will provide a higher level of ownership and acceptance of the local process by stakeholders, and will add to the credibility and efficacy of the local unmet transit needs process.

Recommended Strategy

Caltrans DMT should require SSTAC to review and comment on the annual unmet needs hearing finding in collaboration with regional transportation agencies prior to the final governing body approval/determination. This strategy will be referred to the TDA Working group for further action, and will also require formal legislative action to implement.

Alternative #3 – Strategic Discussion

Integrate Unmet Needs Process Findings with the SAFETEA-LU Coordinated Plan. Discussions with the MAP PAC, supplemented by the project team review of all Coordinated plans statewide showed that the specialized transportation needs of the target populations identified in the Coordinated plans in many cases, were not consistent with the needs identified for these populations during the unmet transit needs process. The large and small urban Coordinated plans in California for the most part were developed by the designated recipients in the region, usually the regional transportation planning agencies (MPOs/RTPAs). However, the development of rural plans was for the most part was facilitated by Caltrans with oversight and participation by the regional agencies in the respective geographic areas. These agencies also oversee the unmet transit needs process. MAP PAC members discussed the potential to combine these efforts to develop a “collective profile” of transportation needs of the target populations in each county. It should be mentioned that the Coordinated plan documents for rural counties did incorporate their unmet needs findings.

There was overall consensus expressed during MAP PAC meetings that findings documented during unmet needs hearings should be reflected in all Public Transit – Human Services Coordinated Plans developed in regions participating in the unmet needs process. In recognition of the fact that segments of the target populations overlap, integrating both programs seems a logical nexus to achievement of local understanding and acceptance of the correlation between the two programs. Providing a direct transportation needs and services-based connection will also be effective in avoiding and/or limiting regional duplication of effort in designing services to meet specialized transit mobility needs, and can serve to identify opportunities to leverage funding between the two programs for coordinated services.

Recommended Strategy

Caltrans should require that unmet needs process findings must be included in Coordinated plans as they are updated in the future. It is envisioned that regional/county unmet needs findings would be included in Coordinated plans sometime following review by the SSTAC. Depending upon regional funding priorities this action could result in more frequent plan updates, and in the development of a greater number of fundable coordinated transportation projects to address the local/regional transportation needs.

2. Medi-Cal's NEMT Program

Background

Federal Medicaid regulations require each state plan to "ensure necessary transportation for recipients to and from providers;" and "describe the methods the agency will use to meet this requirement."[74] California assures the necessary transportation of Medi-Cal recipients in the California Administrative Code as follows:

> *"Medical transportation services means the transportation of the sick, injured, invalid, convalescent, infirm or otherwise incapacitated persons by ambulances, litter vans or wheelchair vans licensed, operated, and equipped in accordance with applicable state or local statutes, ordinances or regulations. Medical transportation services do not include transportation of beneficiaries by passenger car, taxicabs or other forms of public or private conveyances" (emphasis added).*[75]
>
> *And:*
>
> *"Ambulance, litter van and wheelchair van medical transportation services are covered when the beneficiary's medical and physical condition is such that transport by ordinary means of public or private conveyance is medically contraindicated [to make (a treatment or procedure) inadvisable*[76]*], and transportation is required for the purpose of obtaining needed medical care."*[77]

These regulations allow only those who are the most severely disabled to take advantage of NEMT, and exclude all other Medicaid beneficiaries. In 1983, a group of Medi-Cal recipients filed suit against the state claiming that the state plan violated the "assurance of transportation" requirement because it did not assure necessary transportation to *all* qualifying recipients.[78] The court agreed and ordered the state to amend and publish a complete plan that took into account all qualifying recipients.

The court went on to rule that the state was not required to furnish transportation or pay for it, and that "federal regulations advise and counsel in detail that options and priorities be established, and alternate means of transport, including voluntary assistance by others, be considered in adopting a state administrative transportation plan."[79]

To comply with the court order, the California Department of Health Services (CDHS) expanded upon the information about transportation options that Medi-Cal offices provide to county welfare and local Social Security offices.[80] The administrative codes cited above describing medical transportation have not been amended since the lawsuit.[81]

In other states, successful suits have revealed a lack of assurance of necessary transportation.[82] All these cases were brought under 42 U.S.C. § 1983, which allows for any citizen to bring suit over a deprivation of civil rights under the color of any "statute, ordinance, regulation, custom, or usage."[83] Nevertheless, Alabama and Vermont have recently been successful in challenging a plaintiff's abilities to bring suit under this statute. In *Harris v. James*, the 11th Circuit Court of Appeals (which includes Alabama, where the suit was brought) ruled that "federal regulations alone cannot create enforceable rights under § 1983 and that while transportation may have been implied under the statute [42 CFR § 431.53], there was no clear statutory right to transportation."[84] Under this reasoning, even though a "Medicaid agency may

have an obligation to assure transportation only the Secretary of Health and Human Service can enforce it" because the interest is not implicit in the enforcing statute.[85]

In their policy brief on NEMT, the George Washington University authors speculate that the Deficit Reduction Act of 2005 (DRA) brokerage rule might have changed this problem by explicitly referring to the states' obligation to assure for the necessary transportation.[86] Under current federal case law, only the Secretary of Health of Human Services can require states to comply with Medicaid's "assurance of necessary transportation" regulation.

In addition to restricting the type of Medicaid beneficiary who can use NEMT, every beneficiary who needs NEMT must submit a treatment authorization request (TAR) to one of two Medi-Cal offices in the state for approval.[87] The offices can accept, deny or modify the request. Medi-Cal also requires additional documentation from the provider, such as a prescription or order signed by the "physician, dentist or podiatrist that confirms the medical reasons necessitating the use of NEMT."[88] If a Medicaid beneficiary has a chronic condition, he/she is required to annually submit a TAR.

According to the California Legislative Analyst's Office (LAO), a provider would, ideally, obtain a TAR from Medi-Cal before transporting the recipient, instead of having the TAR evaluated after the service has been rendered. However, because Medi-Cal currently evaluates TARs after service has been rendered providers are left with uncertainty about reimbursement.[89] Also, it should be noted that most recipients of NEMT services in California are dialysis patients or other clients with chronic conditions. In these cases the NEMT service provider is more likely to make the effort to complete the TAR, as the document is good for one year of service.[90]

The LAO also recommends the use of a NEMT brokerage program[91]. The process to establish NEMT brokerages has been simplified due to the enactment of the DRA. Under the Act, states will not be required to obtain a section 1915(b) waiver to obtain non-emergency medical transportation. The DRA gives states the ***option*** to use a non-emergency medical transportation brokerage program when providing transportation as medical assistance under each state's plan,[92] providing greater flexibility in providing NEMT services. CMS did not to include a definition of a "broker" or "brokerage" in the rule leaving that to the discretion of those entities brokering transportation services to ultimately define their own business model. However, according to Medicaid transportation experts, a NEMT broker could be defined as a business that accepts requests for medical transportation from Medicaid recipients, and from the information provided selects the most appropriate lowest cost service provider, then bills the state for whatever the contract terms are and pays providers in a timely fashion.[93]

Prior to the enactment of DRA, if a state wanted to provide NEMT services and be reimbursed under medical assistance, it could not restrict a beneficiary's choice of transportation provider by contracting with a broker, nor could it provide services differently in different areas of the state without receiving a waiver under section 1915(b) of the Act. These waivers allow states to restrict freedom of choice providers, to selectively contract with brokers, and to operate their programs differently in different areas of the state and still receive reimbursement at the medical service rate. Alternatively, a state does not have to request either a 1915(b) waiver or amend its state Medicaid plan if NEMT services are included as an administrative cost, or treated as a medical service, without restricting Medicaid recipients' freedom to choose their own transportation provider.

Because both of California's Medicaid reimbursement rates are at 50 percent there has been no incentive for the state to establish a NEMT brokerage program. The passage of the American

Recovery and Reinvestment Act of 2009 (ARRA) provided $87 billion to states for state Medicaid assistance. This infusion of ARRA funding benefited California by increasing its medical assistance reimbursement rate from 50 percent to 61.59 percent from October 1, 2008 through December 31, 2010.[94] This increase provides an incentive for the state (and other states at the 50 percent medical assistance rate) to implement a NEMT brokerage program.

Issue

NEMT for Medicaid beneficiaries in California is often described as one of the most restrictive programs in the country. As of 2005, over two-thirds of the state's Medi-Cal population was prohibited from using NEMT.[95] Medi-Cal's overall budget is around $22 billion, less than $100 million (about 0.4%) of which is spent on NEMT.[96]

MAP PAC members and study stakeholders have indicated that they believe the state's NEMT policies have effectively resulted in both missed and unscheduled medical appointments for those Medi-Cal beneficiaries who are unable to secure transportation. Stakeholders likewise have throughout the study proposed a solution that they believe would result in increased mobility for Medi-Cal beneficiaries. This would be to allow public transportation providers in California to provide NEMT services, and subsequently be reimbursed by Medi-Cal. Although transportation providers public and private can currently apply to the state to become a transportation provider, the requirements are lengthy and difficult to meet, and may not result in approval. This poses the question: Should Medi-Cal's NEMT policies be modified to allow for greater access to transportation for all beneficiaries by permitting Medi-Cal reimbursement for public transit providers in California?

Moreover, relative to improving access to NEMT services, the brokerage rule previously discussed has been praised by some study stakeholders as a viable alternative that could serve to address California's NEMT mobility challenges. However contrary to this perspective, others had significant concerns about the rule's possible hindrance to coordination and raised concerns about the potential impacts to CTSAs and transportation providers in the state. Therefore a second question is whether California should establish a brokerage system to better coordinate its NEMT services for Medi-Cal beneficiaries?

Analysis

The study research suggests that Medi-Cal policies restricting public transportation provider reimbursement for Medi-Cal trips has impacted access to mobility options for beneficiaries, thereby constraining their ability to get to medical appointments. The state's NEMT policies directly impact the degree of transportation need expressed by the target populations at the local level, as demonstrated by the fact that medical transportation is cited as the number one trip need/purpose in almost all most Coordinated plans in the state.

As previously discussed, California Medi-Cal policies only allow the most severely ill and disabled to use NEMT services, leaving out a large proportion of Medi-Cal beneficiaries. Furthermore, those beneficiaries who meet the state's definition are required to complete a TAR for every ride they take, or they must complete the TAR on an annual basis if they have a chronic condition. The TAR requirement conceivably creates some disincentive for beneficiaries in their efforts to obtain transportation services, as well as, for providers assisting clients to obtain riders. This requirement may reduce the total number of those utilizing local NEMT services due to "real or perceived" difficulties in completing the TAR.

Contrary to the limitations related to Medi-Cal's NEMT regulations, two public transit operators in Southern California, San Diego County's Metropolitan Transit System (MTS) and North San Diego County Transit District (NCTD) are currently providing Medi-Cal trips for beneficiaries and receiving reimbursement from the state. These agencies have established a partnership with San Diego County's Health and Human Services Agency (HHSA) to develop a NEMT model that has innovatively addressed the regulatory definition of "public conveyance." This was accomplished by identifying allowable medical trip destinations (i.e., hospital/medical center, regional center day programs), not subsidizing bus passes, and providing rides on San Diego County's paratransit services for Medi-Cal beneficiaries only. These demand-responsive trips can be scheduled in advance using automated trip scheduling systems, which ensure full accountability, record-keeping and reporting specific to any number of passenger and service-related criteria which includes, passenger eligibility, trip purpose, destination, pick-up and drop-off times, etc. This ensures that the County HHSA is provided with sufficient program and trip information to assure compliance with California Medi-Cal policies and Medicaid regulations.

San Diego County's Medi-Cal reimbursement program was successfully implemented over a period of approximately 18-months, due in large part to the willingness of the County's HHSA to work with the transit public transportation providers in the region to improve mobility for Medi-Cal recipients.

CMS Brokerage Rule and Coordination

Regarding the CMS brokerage rule, study stakeholders expressed concerns that the brokerage rule could potentially interfere with the 2004 Executive Order that created the Interagency Coordinating Council on Access and Mobility (CCAM), which stresses the importance of coordination of public transportation at the Federal level. In their responses to comments during rule development, CMS asserted that the rule does not expressly mention coordination and that Medicaid funding can only be used for Medicaid services provided to program beneficiaries. CMS also added that when managing a NEMT program, the state is required to follow Medicaid's guidelines regardless of whether it interferes with coordination efforts, and that the principles laid out in the Executive Order are suitable so long as they do not interfere with Medicaid's policies and rules.

According to CMS the Executive Order 13330 does not direct federal agencies to ignore their own policies and rules, "[t]he rule did not preclude state Medicaid agencies from participating in efforts to coordinate the use of transportation resources consistent with the guidance issued by the CCAM, as long as those coordination efforts recognize that Medicaid's responsibility is limited to ensuring cost-effective transportation for beneficiaries to and from Medicaid providers."[97]

The MAP PAC and other agency stakeholders took issue with the rule's prohibition on transportation provider serving as brokers. Stakeholders commented that this prohibition effectively excludes many more capable transportation providers in the state from serving in this capacity. In addition, some transportation providers and transit advocates have also expressed concerns that a brokerage program established under this rule could result in a broker potentially limiting the number of rides it provides to increase brokerage company profits. However, recognizing that the rule has only been in effect for only a short period of time (eight (8) months) the project team believes that it is still too early to assess the impact of the rule on coordination, or the provision of NEMT services.

Non-Emergency Medical Transportation (NEMT) Program Recommendations

Alternative #1 – Strategic Discussion

Medi-Cal Should Provide Greater Access to Transportation for Beneficiaries. There was significant discussion pertaining to the state's Medi-Cal policy which provides transportation only for those beneficiaries who are severely or chronically ill and disabled. It is universally understood that providing trips for Medi-Cal beneficiaries not currently being transported would logically increase Medi-Cal transportation costs. This is not a desired outcome given the state's current financial position.

In addition, Medi-Cal's trip reimbursement policies as they apply to public transportation providers also impacts access and availability of transportation to beneficiaries. Study stakeholders maintain that this policy constrains Medi-Cal recipients' ability to schedule and keep their medical appointments, and results in undesirable health-related outcomes for the target populations.

As a part of the process to develop an approach to the NEMT access and reimbursement issue related to this study, the Department of Aging arranged a teleconference that also included Caltrans, the Department of Healthcare Services (DCHS) representatives and members of the project team to discuss the issues and consider next steps.

The initial teleconference was productive, as the discussion was focused upon issues related to the NEMT reimbursement for public transit providers including: the potential cost-related impacts of expanding the Medi-Cal transportation program, the state's current economic condition, an overview of the County of San Diego County NEMT reimbursement program, NEMT Trip Brokerages and the potential to develop a NEMT pilot research project in California.

As a follow-up to the meeting Caltrans to agreed to take the lead in working with DCHS and the Department of Aging and would provide additional information to these departments on the Medi-Cal public transit NEMT reimbursement issue including information on the San Diego program. MAP PAC and study stakeholders informed of this development at the April 17, 2010 MAP PAC meeting.

Recommended Strategy

Caltrans should assume the lead in coordinating efforts with the California Health and Human Services Agency, the Department of Aging, DCHS and state-level departments to formulate plans to develop and obtain funding for NEMT pilot research project in California designed to assess the potential cost-effectiveness and associated impacts of Medi-Cal NEMT reimbursement of public transit providers. This research could provide the analytical basis for NEMT reimbursement for public transit operators and/or development of a NEMT Pilot brokerage project in California in the future.

Alternative #2 – Strategic Discussion

Amend the Treatment Authorization Request (TAR) Process for NEMT Rides. The TAR process is cumbersome for those able to use NEMT services in California, and for the medical providers who assist beneficiaries in submitting these requests. The MAP PAC Co-Chair informed the MAP PAC and other agency stakeholders that DHCS does indeed recognize that the TAR process is cumbersome, as an agency representative informed her that actions to

amend the TAR process are already underway. However, it was noted that state budgetary constraints will delay immediate modifications to the process.

Study stakeholders agreed that Medi-Cal should progress toward implementation of the LAO's recommendation that the TAR process be amended to be less cumbersome and require that TAR documents are submitted prior to (not after) the NEMT ride is provided, which will ensure that transportation providers can be reimbursed when services are provided.

Recommended Strategy

Caltrans DMT working with the California Health and Human Services Agency, the Department of Aging and the Mobility Action Plan Project Advisory Committee (MAP PAC) should monitor the progress of the DHCS in their actions to amend and simplify the current Medi-Cal TAR process.

Alternative #3 – Strategic Discussion

Develop Opportunities for NEMT Providers to Actively Participate in the Coordination Process. In the development of Coordinated transportation plans regional transportation agencies are required to ensure participation from a broad-base of stakeholders including both public and private transportation providers. Study stakeholders mentioned during discussions that CTSAs already take the leadership role in working with transportation providers to provide training, information and other coordination-related assistance. However, it was also mentioned that many NEMT providers often decline to participate in CTSA-sponsored meetings and events as they do not understand the value of these opportunities since there is no direct financial benefit. It was generally agreed however, that NEMT transportation providers are important partners in that must continue to be involved as partners in local and regional coordination efforts.

Recommended Strategy

No state strategy is being recommended.

Alternative #4 – Strategic Discussion

Institute a Hybrid NEMT Brokerage. The LAO suggests that Medi-Cal implement a NEMT brokerage program to provide greater access to NEMT for Medi-Cal beneficiaries. California is currently being reimbursed at the medical service rate.[98] However, to maintain reimbursement at this rate, the state will have to request another section 1915(b) waiver if a brokerage were to be established.

Caltrans staff indicated that this option was outside of their ability to implement. However, it was pointed out that DCHS would likely be the implementing agency working through Medi-Cal. Other issues that surfaced included the need for state approvals related to funding utilization, potential considerations for identification of brokerage locations within the state, and the need to include an educational component for health and human service decision-makers on how transportation decisions are made. Caltrans assured study stakeholders that the agency is committed to provide information for decision-makers necessary to develop a framework to move forward on this type of project, and added that additional consideration and discussion is necessary to determine the best approach.

Recommended Strategy

Caltrans should work with the California Health and Human Services Agency, the Department of Aging, and DCHS and state departments to develop methods and approaches to evaluate the viability and benefit of NEMT transportation brokerages through development and funding of a pilot brokerage project in California.

Alternative #5 – Strategic Discussion

Implement a NEMT Brokerage According to the CMS Rule. Medi-Cal could effectively avoid having to submit another section 1915(b) waiver and implement a brokerage program in accordance with the CMS rule. This will ensure continued reimbursement at the medical service rate. This alternative provides another option for consideration by Caltrans, DCHS and the Department of Aging in development of NEMT brokerages.

Recommended Strategy

Caltrans should work with the California Health and Human Services Agency, the Department of Aging, and DCHS and state departments to develop methods and approaches to evaluate the viability and benefit of NEMT transportation brokerages through development and funding of a pilot brokerage project in California.

3. The Role of Consolidated Transportation Service Agencies (CTSAs)

Background

Under the Social Services Transportation Improvement Act of 1979 (AB 120 or California Government Code § 15950 et seq.),[99] Consolidated Transportation Service Agencies (CTSAs) were envisioned as single entities (or in certain rare cases, multiple entities) in a geographic area that could bring together certain shared functions of the manifold and diverse providers of social services transportation in a more efficient and cost-effective manner. These functions included purchasing of necessary equipment, training of drivers, dispatching, vehicle maintenance, certain administrative functions and funding.[100] Existing capabilities in administration, funding, and operating and maintenance personnel were to be utilized to the maximum extent possible.[101] It was anticipated that CTSAs would "improve transportation service required by social service recipients by promoting the consolidation of social service transportation services."[102]

The term consolidation was used in the legislation as the basic concept for the development of CTSAs. Consolidation although similar to coordination is not the same. Consolidation brings all functions under control of a *single* entity, while coordination brings two or more agencies together for joint conduct of one or many functions. However, over the years CTSAs have increasingly been thought of in broader coordination terms. The CalAct *CTSA e-Book* states, “As imperfect as they may be, California’s CTSA statutes already exist to advance the goals of coordination.”[103]

As part of a social service transportation action plan, CTSAs may be designated within the geographic area of jurisdiction of a county transportation commission (CTC), a local transportation commission (LTC), a regional transportation planning agency (RTPA), or a

metropolitan planning organizations (MPO) to achieve the intended transportation coordination goals listed in the act. Currently, 53 CTSAs are designated in California.[104]

The SSTIA required transportation planning agencies or a county transportation commission to adopt and submit an action plan that reflects the strengths of existing services, a plan to correct deficiencies and maximizing transportation benefits possible through coordination and/or consolidation of services.[105] Separate inventory reports of all existing public and private social service transportation services were required to be submitted by December 31, 1980.

The CalAct e-book on CTSAs summarizes the legislative intent of the SSTIA and the CTSA concept as follows:

> *The purpose of the Act was to improve the quality of transportation services to low mobility groups while achieving cost savings, lowered insurance premiums and more efficient use of vehicles and funding resources. The legislation took the middle course between absolutely mandating and simply facilitating the coordination of transportation services. Designation of CTSAs and implementation of other aspects of the Act were seen as a flexible mechanism to deal with the problem of inefficient and duplicative social service transportation programs that proliferated due to a dramatic increase in the number of social service programs offered by government agencies and private nonprofit organizations to meet their clients' mobility needs.*[106]

In addition, AB 120 originally contained a reporting requirement. Codified as Section 15973 of the Government Code, it was repealed in 2002 by AB 2647.[107] The reporting section required transportation planning agencies and county transportation commissions to prepare and submit a report to the state Director of Transportation on all existing social services transportation services in their respective geographic areas.

The report was required to contain: an inventory of all existing public and private social service transportation services, the amount of funds they use, and the number of people served; a statement on the service's drivers and management of the service; a summary of the average vehicle miles driven; a description of the background of the service in the community, and any other pertinent information about the service.

AB 2647 effectively eliminated numerous provisions requiring DMT to prepare and submit legislative oversight reports. According to the legislative analysis of the repealed bill, AB 2647, DMT asserted that the reports "served no useful purpose since other reports provide better information..." [108]

Another reporting requirement was added in 1989 by SB 807 requiring RTPAs and CTCs to submit an inventory of social service transportation services and a service consolidation plan every four years and an action plan every two years. DMT was also required to submit to the Legislature and the Governor a biennial summary of the reports from the RTPAs and the county transportation commissions.[109] DMT received reports in 1990, 1992, 1994, and 2001, but these never generated inquiries or feedback from public entities or the Legislature. The legislative analysis also mentioned that most reporting agencies have a system in place (for example, advisory boards) that consider and take actions on issues related to defining unmet transit needs in their areas.

The legislative analysis further stated:

> *"…it appears that the legislative intent is being met without a cumbersome information collection and reporting process and that the legislation [requiring detailed reporting] is of limited value. Furthermore, this bill would not affect the RTPAs and the county transportation commissions' obligation to collect the information on social service transportation services."*[110]

Issue

The potential benefits of consolidating and coordinating of transportation-related social service activities were recognized early in California as demonstrated by the enactment of pioneering state law encouraging the coordination of social services transportation. However, broad implementation has been difficult and the benefits have only been partly realized. A complex and fragmented coordination landscape with strong competing local authorities and an unclear state role has resulted in mixed outcomes, and many in California believe that improvements can be made.

Presently, not all counties or geographic regions have designated CTSAs. In addition, of those regions that do have designated, established CTSAs, only a few have been able to achieve some level of consolidation in the six areas identified in the law.[111] CTSAs currently do not have the authority to either enforce or empower coordination efforts in the regions they represent. This disparity in CTSA implementation has been described as the result of a "permissive rather than mandatory approach" and is the reason "in many jurisdictions, CTSAs could not overcome political and funding barriers necessary for full implementation."[112]

Moreover, a previous requirement of the SSTIA was for regional agencies to submit a report to the DMT regarding the level of social services transportation provided in their regions. This reporting requirement was eliminated which subsequently made it challenging to evaluate the actual impacts and effectiveness of CTSA consolidation/coordination activities in a given geographic area.

Recognizing the SAFETEA-LU now requires coordination between public transit and human services agencies, the key issues that should be addressed as a result of this analysis is whether CTSAs should be the primary entities responsible for spearheading regional public transit and human service coordination efforts? If so, then should the established statutory framework creating CTSAs be modified to delegate additional authority to CTSAs to promote regional coordination activities including mobility management? Or is an entirely different approach indicated?

Analysis

MAP PAC and stakeholders at large have repeatedly expressed the opinion that CTSAs are basically limited in their overall effectiveness, as they do not have the statutory ability to enforce or encourage coordination in their geographic regions.

As with most other organizations CTSAs are facing funding shortfalls. Under TDA Article 4.5, a CTSA may receive up to five (5) percent of a county's local transportation funds which are available for "community transit service". CTSAs can also receive some federal funding under 5310, 5316 and 5317 programs administered by the state, and also can receive funding for mobility management practices under section 5302. [113] The limited amount of funding provided

to these entities offer limited incentive to establish CTSAs, either in areas of the state that have never designated a CTSA, or in those regions where a CTSA did exist and was abandoned. Furthermore, funding limitations directly impact the quality and quantity of coordination-related services they can provide, as CTSAs typically oversee a multiplicity of transportation provider-related activities and functions.

CTSAs have been successful in fulfilling the legislative intent in many areas of California. Many large/small urban and rural area CTSAs are very active and have received funding to promote coordination. In addition, CTSAs in Sacramento, Los Angeles, and Santa Barbara have been cited as successfully providing a broad range of services.[114]

Given the many challenges, the CalAct E-Book provides a viewpoint on how the more pragmatic and successful CTSA's have operated:

> *Without authority to require cooperation of local social service agencies, the more mature, fully-functioning CTSAs have developed strategies to promote, and explain the benefits of coordination and deliver it at the local level. Persistence, political savvy, and friendly persuasion have effectively served these CTSAs, some of which are direct recipients of federal operating and capital funding programs as well as local transportation sales tax revenues specifically for providing community transit to the transportation disadvantaged.* [115]

The passage of the Americans with Disabilities Act (ADA) also created a funding-related disincentive for creation and/or expansion of CTSAs. The ADA required transit agencies with fixed route service to provide complementary paratransit service within three-quarters of a mile of their fixed route services. According to some stakeholders, this resulted in re-directing federal funding to transit agencies operating ADA services instead of CTSAs. Study stakeholders in the Northern part of California commented that this is a larger issue in the Bay Area than it is in other areas of the state.

The rationale for repeal of the reporting requirement was another issue raised on more than one occasion during MAP PAC meetings. The prior reporting requirement was viewed by legislators as an oversight mechanism that was deemed to have limited value, and was therefore repealed in 2002. Agency stakeholders were uncertain about the reasoning for discontinuing the requirement for reporting. Comments from stakeholders were focused upon the value and usefulness of the reports that had previously been required, and considered potential alternative methods to demonstrate accountability for coordinated programs. MAP PAC members mentioned that some regional agencies and counties still collect data and information on social service transportation for planning purposes.

The requirement in SAFETEA-LU for development of a Coordinated Public Transit-Human Services Transportation Plan gradually became a topic of discussion relative to reporting requirements. In fiscal year 2007, projects funded through three programs reauthorized in SAFETEA-LU—Job Access and Reverse Commute (JARC) (Sec. 5316), New Freedom (Sec. 5317) and the Program for Elderly Individuals and Individuals with Disabilities (Sec. 5310)—must be derived from a "locally developed, coordinated" plan.

In 2006, FTA issued guidance on what constitutes an acceptable plan. Coordinated plans are required to identify current transportation providers and services, identify transportation needs of the three (3) target populations (seniors, persons with disabilities and low-income individuals), identify gaps and barriers, recommend strategies to address those needs, and establish

implementation priorities for projects and programs. Stakeholders must be involved in plan development, and plans must be adopted by the designated recipient. State departments of transportation, if they are the designated recipients of FTA funds, use local coordinated plans to make funding decisions. The Coordinated Plans developed for the various large and small urban and rural counties in California were reviewed and summarized as an element of this study.

CTSA Recommendations

Alternative #1 – Strategic Discussion

Expand the SSTIA Eligibility Designation Requirement Relative to CTSAs. Presently public agencies, transit operators, private entities operating under a franchise or license, and non-profit corporations are eligible to be designated as a CTSA. This definition allows almost all types of agencies/organizations/entities to become a CTSA. Throughout the study human service agency stakeholders have suggested that that the regulations should be expanded to allow CTSA designation of human service agencies and organizations, even though under the current law these agencies can already be designated as such. It should be noted that a modification related to the current SSTIA CTSA eligibility designation requirements, would require a formal legislative change in the statute.

The perception by study stakeholders that the eligibility designation requirement needs to be expanded to include human service agencies demonstrates that there is a lack of knowledge and understanding of the current regulations pertaining to CTSAs, and suggests that more clear-cut information related to establishing, funding and maintaining CTSAs should be developed. The California Association for Coordinated Transportation (CalAct) developed a CTSA e-Book which is useful in understanding basic information relative to CTSAs. This document can be found on the web at: www.calact.org.

Recommended Strategy

Caltrans should work with CTSAs and regional transportation planning agencies statewide to establish direct web links and other informational materials available online that would provide information about CTSAs for public transit and human service agencies throughout the state, including but not limited, to designation eligibility requirements, agency roles and responsibilities, funding sources, coordination activities (e.g. mobility management). Modifications to the statute are not being recommended at this time.

Alternative #2 – Strategic Discussion

Require RTPA Designation of a CTSA in Every County Required by SSTIA. MAP study agency stakeholders raised the issue that although required by the SSTIA, CTSAs have not been designated in every county in California. Stakeholders indicate that they believe that non-enforcement of the regulation has resulted in conflicts and the inability to implement social service coordination activities in some geographic regions within the state.

During MAP PAC meeting discussions the Metropolitan Transportation Commission (MTC), a regional transportation planning agency located in the San Francisco Bay Area in Northern California, was specifically identified as not having any active CTSAs within the region. It was also mentioned that MTC does have procedures in place for establishing CTSAs, although previous efforts by one agency to become a designated CTSA were unsuccessful. Stakeholders

therefore concluded that the statutes already in place need to be enforced requiring that either every county or every region represented by a regional planning agency have a CTSA.

However, the interpretation of the statute over the years has been to allow flexibility for regional transportation planning agencies in determining the value and applicability of CTSAs within their own transportation environment, thereby maintaining local control and continuity in the provision and funding of services. Although stakeholders recognized that the lack of enforcement was an important issue, they also acknowledged that modifying the current statute would be challenging given its current interpretation supported by historical practice.

It became clear as the discussion progressed that a more practical approach might be to provide more education and information specifically designed for regional transportation planning agencies decision-makers demonstrating the value of establishing and funding CTSAs, particularly in the current economic climate.

Recommended Strategy

Caltrans should initiate a joint effort with CTSAs to develop an educational/informational training module and/or materials designed specifically for regional transportation planning agency decision-makers which can serve to educate and inform them about the benefits (cost-savings, increased mobility, leveraging of scarce transportation resources, etc.) that can be achieved through establishment and/or support of CTSAs.

Alternative #3 – Strategic Discussion

Provide State Funding Preference/Priority to CTSAs. The MAP study process and work activities have definitively showcased the important role that CTSAs play in ensuring on-going coordination of human service transportation at the regional level. Coordination of human service transportation is also supported and promoted by other human service entities (SSTAC, Area Boards, etc.). However, because of the history and accomplishments in the coordination of human services, fully functioning and active CTSAs are viewed by many as the foremost leaders in initiating, implementing and supporting vital human service coordination activities, including but not limited to mobility management. Throughout the study there was consensus on the issue of empowering and strengthening the position of CTSAs, particularly in the area of funding support.

Study stakeholders discussed the fact that funding for CTSA activities is provided for in TDA Articles 4.5 and 6.5, but is typically constrained and offers very little incentive to establish new CTSAs. This is due to the fact that TDA revenues for transportation are allocated by regional transportation planning agencies also have responsibility for prioritizing and allocating scarce funding resources for transit and streets and roads uses. In many cases, CTSA activities are deemed less important in the overall regional transportation scheme.

Although there was agreement that TDA funding decisions at the regional level severely impact the viability and functioning of CTSAs, it was made clear that any recommended modification in TDA law relating to how funds are distributed would require statutory changes, and would be referred to the existing TDA Working Group for further action following the completion of the study.

Members of the MAP PAC, CTSA representatives and other study stakeholders agreed that support of CTSA activities is critical and necessary to continue to progress toward the state's

coordination goals, and that the development of incentives that improve their ability to continue to develop coordinated programs and projects should be recommended.

Recommended Strategy

Caltrans should administratively modify existing funding guidance to provide scoring preference/priority on coordinated projects and programs developed by CTSAs that result in a measurable increases in trips provided and/or arranged for members of the target populations (seniors, persons with disabilities and low income individuals).

Alternative #4 – Strategic Discussion

Consider Reinstating the Previous SSTIA (AB 120) Reporting Requirement. Although the previous AB 120 reporting requirement was repealed, MAP study stakeholders viewed the reporting requirement as a method to encourage human services agencies to participate in coordinated activities as they were regularly required to submit their action plans for review to Caltrans. Some stakeholders suggested reinstating the reporting requirement, with or without an enforcement mechanism, to encourage accountability and to gain an understanding of the status of social service transportation coordination in each region. However, stakeholders understood that elements of the locally-developed Public Transit –Human Service Coordinated plans are duplicative of action plan requirements (i.e. service/transportation resource inventory), and given that the Coordinated plans are reviewed and approved by Caltrans, this negates the need to require additional reporting on human service needs and services operated. The consensus was that the Public Transit – Human Service Coordinated plans can serve to replace the previous SSTIA AB 120 reporting requirements, and may in fact be more valuable as they provide the planning basis for competitive project selection processes undertaken in forty-five (45) counties in California.

Recommended Strategy

No state strategy is being recommended.

4. Insurance Liability Impacts

Background

Public and private transportation providers must have significant insurance coverage to ensure protection against the liability inherent in operating transportation services. Unfortunately, all providers are subject to the cyclical nature of the insurance market which often results in higher insurance premiums and lowered coverage parameters.

Stakeholder responses to the study questionnaire showed that providers face challenges in their efforts to share vehicles and maintenance due to unwillingness to assume risk of transporting the clients of other agencies/entities and the corresponding financial responsibility for incidents that can potentially result in injury or damages occur to people and property.

One useful option that can assist in addressing this issue is the use of volunteer drivers. Volunteer drivers can significantly reduce the costs of both vehicles and/or insurance for specialized transportation programs. Some programs allow volunteers to operate vehicles owned by the agency or organization, and volunteers in other programs drive clients in their own

personal automobiles. Volunteers in some programs are minimally compensated based upon mileage or other factors. However, many volunteers are responsible for their own vehicle maintenance, insurance premiums and other expenses. The use of volunteers also offers intangibles such as positive attitudes and personal connections to clients.

Although volunteer drivers can be an important asset, there remain significant legal ambiguities relating to liability and parameters of coverage. Across the country, practices vary greatly. In many jurisdictions, specialized transportation program administrators are uncertain about their liability for traffic incidents involving their volunteer drivers, and there is still confusion about whether they should correspondingly extend their insurance coverage to compensate. In some jurisdictions, volunteer drivers may be immune from liability. From a legal perspective, other jurisdictions do hold drivers, and the organizations that utilize their services accountable, thereby making them more vulnerable to civil lawsuits.

Issue

MAP PAC meeting discussions, responses to the stakeholder questionnaires, and the Coordinated plan summaries have elicited comments about the inability to secure affordable insurance and the potential impacts to coordination. Other transportation actions such as providing door-through-door services, crossing state lines, using volunteer drivers, mixing client populations and addressing insurance market stability can affect an ADA paratransit provider's insurance costs.[116]

Analysis

Sharing vehicles reduces operating and capital costs and prevents underuse of resources (too many service providers could mean vehicles and other resources are not used to capacity).[117] The insurance problem here lies not with the insurance companies, but with structuring an agreement between two or more agencies to cover responsibility for damages that occur while an agency borrowing a vehicle has it in the borrower's possession.[118] According to the Community Transportation Association of America (CTAA), "…any claim will first be made on the insurance of the vehicle owner," and "…in the event of a loss, the vehicle owner's insurance will pay the claim first."[119] To hold the borrower of the vehicle liable for the damages caused, the CTAA recommends either that: The vehicle owner have his insurance company assign the benefit of rights and remedies under a contract (subrogate) the loss to the second operator's insurance company, or have the vehicle owner of the second operator's insurance company cover any loss incurred while he or she is in control of the vehicle.[120]

Another approach is for providers to engage in risk management techniques, which offer low-cost ways to reduce insurance costs for paratransit providers. Risk management is "…a structured process for reducing uncertainty about risks of accidental loss."[121] It involves a process of protecting assets and income by identifying all possible ways an accident or a loss can occur, then taking action to ensure the loss is as small as possible.[122] Every action a company takes is considered a possible risk, and steps are taken to mitigate those risks. Risk management can protect the transportation provider from severe financial loss due to forces beyond the provider's control and can do so at a set cost that does not fluctuate from year to year.[123] Premium costs are set by the underwriting process, and a provider's loss history will dictate the cost of premium. Therefore it is in the provider's best interest to take any possible action to reduce its exposure to high-risk activities.[124]

Regarding volunteer drivers, ambiguities about civil liability can make it difficult for agencies and organizations that use volunteer drivers to obtain adequate insurance and manage long-term costs. Special transportation programs may need to enhance insurance coverage, and the level and quality of services could be significantly affected by the increased insurance expense. Additionally, uncertain risks can make it more difficult to recruit and retain volunteer drivers. New volunteers might be deterred by liability concerns or unwilling to pay substantially higher insurance premiums for the use of their personal vehicles.

The unknown risk of civil liability can significantly impact the ability to establish and maintain low-cost transportation programs for transportation-disadvantaged populations. Insurance companies may be reluctant to allow drivers and special transportation agencies and organizations to cover their volunteer activities with normal insurance policies. Anecdotally, organization officials in some jurisdictions have reported that volunteers were required to obtain special clauses or carry higher insurance amounts to cover the extra use of their personal vehicles for regular volunteer activities. Volunteers who operate regular routes or work for shared cost programs could be categorized by some insurance companies as "for-hire" drivers and be required to pay premiums similar to the much higher rates for taxi cab drivers.

In California, the state prohibits the issuance of auto insurance policies that expressly or by implication exclude coverage for the use of an automobile for the performance of volunteer services for a nonprofit or charitable organization or a governmental agency.[125]

Alternative #1 – Strategic Discussion

Utilize Existing Information and Guidance Related to Insurance Issues. The issue of vehicle liability and insurance continues to be identified by agency stakeholders as a barrier to coordination. It became apparent during the project team research effort that stakeholders need more education about resources already available that can assist agencies and organizations in understanding and addressing insurance and liability issues relative to providing service and/or sharing vehicles. There was consensus that human service agencies and other interested entities should make increased efforts to access available information and resources.

Some valuable informational resources developed by the Community Transportation Association of America (CTAA), the National Resource Center for Human Service Coordination and the Transit Cooperative Research Program (TCRP) have published guidance available online on approaches and considerations that can be effective in reducing insurance costs for transportation providers. In addition, CalAct was instrumental in the creation of Non-Profits United a self-insurance pool for non-profit agencies. These resources and information are cited in this report.

Recommended Strategy

No state strategy is being recommended.

5. State-Level Coordination Oversight

Issue

The backdrop of this study has been the on-going and challenging financial situation faced by the State of California. The economic downturn has reduced state revenues significantly in all

areas including transportation. As a result there is uncertainty about how coordination efforts will fare in the near-term.

Existing human service coordination entities (e.g., CTSAs, SSTAC, etc.) and newly developed coordination mechanisms (i.e. mobility management centers) being created through the development of funded projects, will provide the impetus for promoting and encouraging coordination at the local and regional levels. However, greater state level assistance is needed to provide political support, structured guidance and information to local and regional agencies and organizations to ensure their continual progression toward achievement of coordination objectives both now and in the future.

State-Level Coordination Oversight Recommendation

Alternative #1– Strategic Discussion

Establish a Formalized Oversight Entity to Promote Coordination. One option being undertaken in other states to facilitate oversight of coordination is the creation of state-level mobility coordinating councils. This option creates a direct state-local relationship and includes establishing local coordinating boards and/or "community managers", and identification of dedicated sources of funding. Implementation of this type of formal coordinating structure has resulted in valuable benefits in other states, which may be of use to California in assessing "best practices" related to oversight alternatives and funding of coordination. Establishing a Mobility Council in the state would require an Executive Order or legislation. However, realistically state budgetary issues in California currently limit the ability to rapidly progress toward creation of a more formal state-level coordination oversight entity.

There was discussion and agreement by some agency stakeholders that the state should begin to develop plans to facilitate the establishment of a formal state-level, interagency coordination entity. Moreover, for the purposes of better understanding state level coordination programs, the profiles of programs in Florida, Washington and Wisconsin are presented below.

Recommended Strategy

The Business, Transportation and Housing (BTH) and Health and Human Services Agencies should establish a Mobility Council or other state-level oversight entity to promote public transit and human services coordination in California.

Caltrans (DMT) should initiate an inter-department/agency work effort which should involve departments/agencies of the state to include, but not necessarily be limited to the Department of Aging, Department of Health Care Services, the Department of Rehabilitation, Department of Mental Health, the California Highway Patrol and the Department of Motor Vehicles (DMV) to establish a Mobility Council or other oversight structure.

In addition, MAP PAC comprised of public transit and human service agency and organization representatives throughout the state should continue to serve in an advisory capacity to Caltrans to implement SIP recommendations and future planning activities associated with MAP Goals 1 and 3.

Coordinated Human Service Transportation State Examples

Florida, Washington and Wisconsin are three states with state-level coordination of human service transportation. Each of these states have a state-level commission or council that works in collaboration with—and in some cases funds—local coordination efforts. Florida's model utilizes an independent state agency that has significant policy, planning and oversight responsibilities, a dedicated funding source, the authority to contract for services and disburse funds, and the responsibility to report to the legislature and the governor. In Washington, a state-level interagency council provides a forum for interaction and collaboration and acts to advance coordination, partly by reporting to the legislature. Wisconsin established its state-level interagency council more recently, to develop a coordination model for the state; Wisconsin also encourages coordination through grant programs and by supporting local mobility managers. The characteristics, authority, funding and results for each state's coordination system are described below.

Florida

Program Description

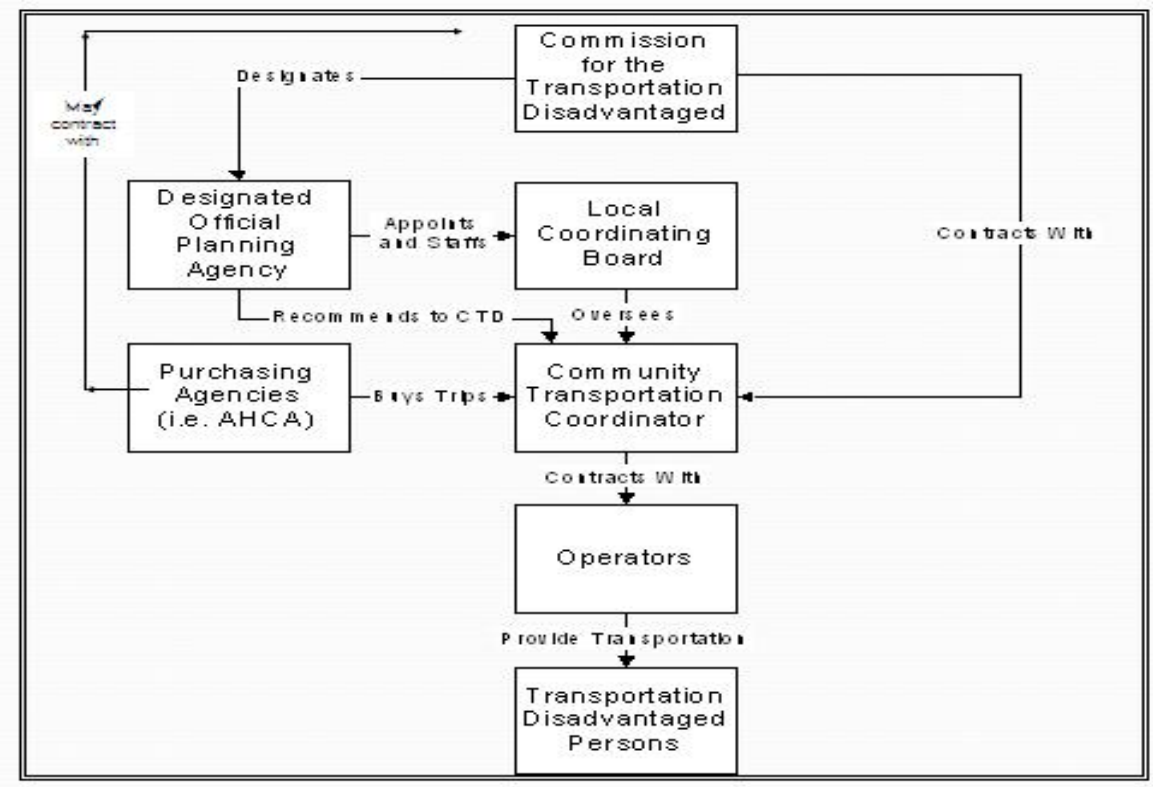
Florida's well-established coordination system is intended to balance local flexibility with comprehensive state planning, policy and oversight[126]. In the Florida model, an independent state agency, the Commission for the Transportation Disadvantaged (CTD), serves as the policy development and implementation agency for Florida's transportation disadvantaged program[127]. The legislature created the Commission in 1989 and made it responsible for the statewide coordination of transportation services for persons who are transportation-disadvantaged, defined as those who "because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others" for transportation, or children who are "handicapped, high-risk or at-risk."[128] The goal of coordination is to "ensure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged."[129]

The CTD brings together multiple agencies and populations. It has seven voting members; at least five who have significant business experience, at least two who have a disability and use the transportation disadvantaged system, and at least one over 65 years of age. Ex officio non-voting advisors include representatives of the state agencies or departments for Children and Families, Elder Affairs, Health Care Administration, Persons with Disabilities, Transportation, Veterans Affairs and Workforce Innovation, as well as a county manager or administrator appointed by the Governor[130].

Florida's legislation clearly defines the roles of both state and local agencies (see figure 1). The state Commission selects a Metropolitan Planning Organization or other local entity to be the designated official planning agency, which, in turn, appoints and staffs a local Coordinating Board, the chair of which must be an elected official. The Coordinating Board serves as an advisory body in its service area. It identifies local service needs, provides guidance for service coordination, and recommends a community transportation coordinator (CTC) to the CTD. The CTD contracts directly with the CTCs, which are responsible for coordinating transportation services in each of Florida's 67 counties. CTCs receive state and federal funds and provide, contract for or broker transportation services. State agencies that fund transportation services ("purchasing agencies") buy trips from a CTC or are billed directly by service operators[131]. One

exception is the state Medicaid agency, which contracts directly with the CTD to manage the Medicaid non-emergency transportation program[132].

Figure 1: The roles of state and local entities in Florida's transportation disadvantaged system[133].



State law gives the state Commission several other responsibilities besides designating planning agencies and contracting with CTCs. Among other duties, it must make annual reports to the governor and legislature, establish objectives and standards for transportation disadvantaged service provision, develop policies and procedures for coordinating state, local and federal funding, disburse funds and provide assistance to local agencies, and prepare a statewide five-year transportation plan that addresses coordination issues[134].

Authority

Legislation was first passed in 1979 requiring the coordination of state-funded programs that provide transportation to transportation-disadvantaged populations. In 1989, the law was amended to create the CTD and create the Transportation Disadvantaged Trust Fund. Florida's transportation disadvantaged program and the CTD are currently governed by Chapter 427.011-017, Florida Statutes, and Rule 41-2, Florida Administrative Code. The Transportation Disadvantaged Trust Fund, which provides for carrying out the responsibilities of the CTD, is established in Chapter 427.0159, Florida Statutes, and further outlined in Rule 41-2.013 and 41-2.014, Florida Administrative Code. For sources of revenue for the trust fund, see Chapters 320.02, 320.03, 320.0848, 320.204, 341.052 and 427.0159, Florida Statutes.

Funding

Florida has a dedicated funding source for transportation disadvantaged services and coordination: the Transportation Disadvantaged Trust Fund, administered by the CTD. The trust fund is disbursed in two kinds of grants: 1) planning grants to local planning agencies for the purpose of local transportation disadvantaged planning and providing staff support to local Coordinating Boards[135], and 2) trip and equipment-related grants to CTCs to fund transportation services not otherwise sponsored by a government agency or program[136], including the purchase of capital equipment[137]. These latter grants fulfill the crucial role of filling a service gap for persons whose transportation needs are not met by any other program. The fund also covers the CTD's administrative expenses[138].

The fund's estimated revenue for FY 2009 was over $39 million[139]. Over half of this revenue came from a $1.50 registration fee for passenger vehicles and trucks weighing 5,000 pounds or less[140]. The fund is also supported by 15 percent of the state's public transit block grant program[141] (28 percent of the fund's revenue in FY 2009)[142], voluntary dollar contributions made by motorists at the time of vehicle registration[143] (<1 percent)[144], a portion of temporary disabled parking permit fees[145] (<1 percent)[146] and a $6 million per year direct transfer from the State Transportation Trust Fund (15 percent)[147]. Starting in 2011, an additional $5 million per year will be transferred to the fund from the Highway Safety Operating Trust Fund, in part to make up for falling registration fee revenues[148]. State agencies that purchase transportation services may also pay into the TDTF for the administration of their funds by the CTD[149]. Under 4 percent of TDTF revenue is spent on the CTD's operating expenses[150].

Of the $361.7 million made available for transportation disadvantaged services in Florida in FY 2008, the TDTF provided just over 10 percent. Other sources of funding included fares, the federal Department of Transportation and other federal programs, and the state departments or agencies for Children and Families, Education, Elder Affairs, Health, Community Affairs, Juvenile Justice, and Workforce Innovation. The two largest contributors were local governments (48 percent) and the state Medicaid program (15 percent)[151].

Results

The Florida system won the FTA's State Leadership Award in 2004 and 2008 and has been recognized by the U.S. Department of Transportation and U.S. Department of Human Services as a "best practice" model[152].

Data for Florida's system indicate significant economic and social benefits. One study estimated the return on investment for Florida's transportation disadvantaged program at 835 percent, or $8.35 for every $1, in 2007[153]. Further, the services are being used by the intended recipients. In FY 2008, 680,274 transportation disadvantaged persons statewide received over 50 million trips. A reported 6.5 million of those trips were provided by the Transportation Disadvantaged Trust Fund[154]; these trips would not otherwise have been covered by any other program.

However, unmet need is still evident. In that same year, over 1 million trips were denied due to lack of funding, lack of vehicle availability or other reasons[155].

Washington

Program Description

Washington achieves coordination of human service transportation using a state-level, inter-agency council in collaboration with regional and local entities. The state's Agency Council on Coordinated Transportation (ACCT), housed at the Department of Transportation was created by the legislature in 1998. The statute established the Program for Agency Coordinated Transportation to facilitate a statewide approach to coordination and to support the development of community-based, coordinated transportation delivery systems, and created the ACCT to implement it[156]. The ACCT's mission is to promote the coordination of special needs transportation, provide a forum for discussing issues and initiating change, provide oversight and direction to the state's coordination agenda, and report to the legislature to propose legislative remedies[157].

Fourteen voting members serve on the ACCT, including representatives of the governor's office, regional and metropolitan planning organizations, counties, transportation providers, and the state agencies of Public Instruction, Transportation, Social and Health Services, and Veterans Affairs, as well as at least three consumers of special needs transportation services. Four non-voting members are state legislators[158]. The ACCT's purpose is to advance and improve accessibility to and coordination of transportation services statewide for persons with special transportation needs[159], defined as those persons, "including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or purchase transportation."[160].

Until 2007, the ACCT's mandated duties included: developing guidelines for, initiating, and supporting local planning of coordinated transportation; engaging in coordination pilot projects; developing guidelines for setting performance measures and evaluating performance; administering grant funds; developing standards for safety, driver training, and vehicles; providing models for processes and technology to support coordinated service delivery systems; acting as an information clearinghouse for best practices and experiences; and, advocating for coordination at the federal, state and local levels, including recommendations to the legislature[161].

When the legislature reauthorized the ACCT in 2007, it also amended the council's statutory duties. The ACCT must now adopt results-focused biennial work plans that identify and advocate for special needs transportation improvements. The work plans must also prioritize projects that identify and address barriers in laws, policies, and procedures. The ACCT is also charged to develop statewide guidelines for customer complaint processes, represent special transportation needs in state emergency and disaster preparedness planning, appoint a work group to engage federal representatives and agencies in an analysis of various federal requirements[162], and review and recommend certification of regional transportation planning organizations' four-year plans[163].

Concerned about the ACCT's effectiveness, in 2007 legislators authorized a study to examine special needs transportation coordination. The final Joint Transportation Committee report, published in 2009, found that the ACCT was underfunded and understaffed, needed performance measures to demonstrate accountability, should be given more authority to be more proactive in transportation planning, and needed amendments to its enabling legislation and bylaws to provide clearer guidance to members and staff[164].

In 2009, the legislature responded to the Joint Transportation Committee report with further legislative action. Among other amendments, this legislation creates local coordinating coalitions to advance local coordination and collaboration efforts, maximize efficiencies in special needs transportation programs, and advise the ACCT about special transportation needs and services in each region. Each coalition's members will represent public transit agencies and other service providers, consumers, Medicaid brokers, social and human service programs, high school districts and the state Department of Veterans Affairs. Regional transportation planning organizations will provide staff support[165]. The legislature also passed additional provisions relating to ACCT oversight of local coordinating coalitions, which were subsequently vetoed.

Authority

Washington's coordinated transportation program and the ACCT are governed by 47.06B.010–900, Washington Annotated Statutes, which were first passed in 1998 and amended in 1999, 2007 and 2009. According to the current law, the ACCT will sunset in 2011.

Funding

Funds from state and federal entities support the ACCT's activities. The Washington Department of Transportation leverages a state appropriation ($381,000 for 2007–2009) to gain assistance from other sources, which for 2007–2009 included the FTA ($975,763), a Community Transportation Association of America (CTAA) grant for technical assistance ($200,000) and the state rural mobility grant program ($87,500), for a total two-year budget of $1.41 million[166]. These funds cover the ACCT's administrative costs and help fund local coordination projects.

In 2006, interviews with ACCT stakeholders revealed a common view that the ACCT was under-funded and understaffed. Stakeholders expressed a desire for "sufficient, sustained and reliable funding for ACCT's internal operations, its grant-making abilities, and for special needs transportation services generally"[167]. The 2009 Joint Transportation Committee report also recommended providing the ACCT with adequate funding to support its mission[168].

Overall, community providers of special needs transportation received $19.6 million for operating and capital expenses in 2005. Sources included state (25 percent of operating revenues, 28 percent of capital), federal (11 percent of operating, 55 percent of capital) and local funds (13 percent of operating, 16 percent of capital), contracts (36 percent of operating), fares (11 percent of operating) and other (4 percent of operating, 1 percent of capital). The state Medicaid program spent another $57.9 million in 2005 on brokered non-emergency medical transportation[169].

Results

In 2004, Washington's coordinated transportation effort won a national award from the FTA to recognize the state's progress in improving human service transportation for persons with special transportation needs[170]. Persons with special transportation needs received over 4.75 million trips in Washington in 2005 from community providers and Medicaid-brokered services[171].

According to a 2005 report of the California State Transportation Task Team, Secretary of Transportation for Washington and then-chair of ACCT Paula Hammond attributed the ACCT's

success in improving human services transportation to having incentives in place to implement a multi-agency coordination program that provides the basis for "cross-cutting accountability". This process places pressure on each peer agency to "identify rule and policy changes that remove barriers to sharing customers and services."[172]

In 2009, however, the Joint Transportation Committee report named "silo" funding, system fragmentation, service duplication, lack of connectivity, inconsistent local coordination efforts and inconclusive pilot projects as persisting barriers to coordination[173]. The report also found that the ACCT needed performance measures to be accountable[174].

Wisconsin

Program Description

In 2005, Wisconsin Governor Jim Doyle charged five state agencies to form the Interagency Council on Transportation Coordination (ICTC) to study human service transportation coordination in the state and develop a statewide coordination plan. ICTC members represent the state Departments of Transportation, Health Services, Veterans Affairs, Workforce Development and the Office of the Commissioner of Insurance[175] , each of which includes transportation in its service programs[176]. The ICTC has a Stakeholder Advisory Committee (SAC) that advises the ICTC on statewide transportation needs and coordination opportunities and helps educate public on the benefits of transportation coordination. SAC members include transportation consumers, advocacy organizations, tribal representatives, service providers and other partners. The goal of the ICTC is to create a "coordinated, accessible, affordable, dependable, and safe statewide system providing the best transportation services to transportation disadvantaged individuals in Wisconsin."[177]

Wisconsin has also encouraged coordination through funding relationships. The state's financial and capital assistance programs for special needs transportation include 1) the Specialized Transportation Assistance Program for Counties, created in 1977 to provide assistance to counties for transportation services for older adults and persons with disabilities[178], and 2) the transportation employment and mobility program, now known as Wisconsin's Employment Transportation Assistance Program (WETAP), created in 1981 as a system for coordinating employment-related transportation services for low-income workers[179]. Both programs require a demonstration of local coordination for projects to be eligible for funding[180]. A third program, the Elderly and Disabled Transportation Capital Assistance Program[181], combines federal and state funds to provide capital assistance for specialized transit vehicles; the federal component has a coordination requirement[182].

Another component of Wisconsin's model is its 48 mobility managers, who develop and implement mobility management programs. These programs focus on delivering coordinated transportation services to persons with special transportation needs through a range of options and providers, and seek to improve special needs transportation through collaboration with public and private transportation providers and other community stakeholders at the local, regional or county level[183]. The state began building its system of mobility managers in 2007. The effort was funded by federal New Freedom grants—which support transportation services for persons with disabilities—as well as other state and federal resources. WisDOT also provides mobility management training and technical assistance[184]. Currently, mobility management is provided in 69 of the state's 72 counties[185].

The ICTC engaged in a recent effort to develop a model of human service transportation coordination for Wisconsin, including implementation strategies. The *Wisconsin Human Service Transportation Coordination Model* final report was released in September 2008. The proposed model sets forth four strategies to advance state and local coordination[186]:

- Strengthen ICTC as the lead entity for statewide coordination efforts, by making it a more permanent body with clear authority and stable support;
- Encourage county and/or regional coordination councils;
- Require county and/or regional coordination councils for federal and state funding; and,
- Encourage regionalization through incentives and rewards.

Authority

The ICTC was created by a directive of Governor Doyle in 2005.

Funding

The *Wisconsin Coordination Model* recommends independent, stable funding for the ICTC, which it currently lacks[187]. Funding for ICTC activities has come from several sources. A 2007 statewide conference on coordination was funded by WisDOT and conference registration fees, and the 2008 report was funded by a federal United We Ride grant and the state Department of Workforce Development Division of Vocational Rehabilitation. A United We Ride grant has also supported the costs of ongoing ICTC meetings and some costs for the SAC. The federal Rural Transportation Assistance Program (RTAP) is being considered as another possible resource for the future, though it has not yet been used. The ICTC does not directly fund any local coordination activities at this time. The ICTC is currently staffed by WisDOT and was previously co-staffed by the then-called Department of Health and Family Services[188].

The 2008 report also found funding-related barriers and challenges to coordination. One such barrier is a fragmented transportation delivery system. Funding for human service transportation in Wisconsin—including local coordination activities—comes from many sources. These multiple funding streams have different reporting requirements, operations, guidance and restrictions on how funds may be used. This frequently results in multiple services that operate independently within a single county or region[189].

To illustrate, WisDOT currently administers ten programs that provide operating and capital assistance for public transportation; in 2006, $183 million was available for this purpose, of which 11 percent was used to support specialized transit services accessible to older adults and persons with disabilities. State programs include the Specialized Transportation Assistance Program for Counties and the Elderly and Disabled Transportation Capital Assistance Program. Federal programs include the New Freedom grant program, which is one of the resources that provides funds for the development of statewide mobility management programs. The state's WETAP program also supports specialized transit and is funded by the federal Job Access and Reverse Commute (JARC) program, WisDOT's Transportation Employment and Mobility (TEAM) program, the state Department of Workforce Development's Employment Transit Assistance (ETA) program, and local matches. State agencies that fund human service transportation programs include the Departments of Health and Family Services, Veterans Affairs and Workforce Development. The state's largest resource for human service transportation is combined state and federal Medicaid, providing $60 million annually[190].

Results

No data could be found relating either to the overall performance of human services transportation in Wisconsin, or to recent coordination activities.

Synthesis

All three states examined here—Florida, Washington and Wisconsin—have a state-level entity that has mechanisms for interacting with and supporting local coordination efforts. The Florida system has been recognized by the U.S. Department of Transportation and U.S. Department of Human Services as a "best practice" model[191]. Both Washington and Wisconsin examined Florida's model in their recent reports on human service transportation coordination[192], to gain insight about best practices and possible coordination strategies.

Recommendations that appear in some form in both the Washington and Wisconsin reports, and which reflect best practices from the Florida model, include:

- Strengthening the state-level body with increased authority for statewide coordination, policy direction, and/or oversight
- Establishing or encouraging county, local, and/or regional coordinating councils and (for Washington) community access managers
- Providing adequate funding for coordination activities, perhaps by creating a new, dedicated funding source (as with Florida) or by combining existing programs

Overall, the recommendations suggest a bi-level oversight and coordination structure, with significant responsibilities at both the state and local, county or regional levels. Additionally, adequate, dedicated funding is required to support coordination activities and, as Florida demonstrates, can also fill service gaps for transportation disadvantaged persons whose service needs are not met by any other program.

One additional point that is apparent in the Florida and Washington examples. Effective legislative oversight is key to ensuring that legislative intent is followed in the agency implementation process. Broadly speaking, legislative oversight is the process by which a legislative body makes certain that state agencies are following the enabling statute and determining if associated programs could be run more cost-effectively. This is exercised in a variety of ways including conducting committee oversight hearings, requiring an annual agency report to the legislature, and non-partisan written evaluations by legislative program evaluation offices. In a number of states, including Florida and Washington, in-depth evaluations by program evaluation offices or study commissions have resulted in ongoing improvements in human service transportation coordination programs.

COMPARATIVE ANALYSIS OF KEY STATUTES AND REGULATIONS

The statutes researched by the project team were comprehensive and broad-based in their intent and purpose and are detailed in the Matrix of Relevant Federal and State Statutes included as Appendix A. The study legislative research and analytical work activities were largely focused upon identifying *"state and federal restrictive and duplicative laws and regulations related to human services transportation-funding programs that impede coordination"*[193] and resulted in a thorough assessment of the impacts to coordination relative to each *individual* statute as detailed previously in this report.

An examination of the issues of potential duplication and conflict between the key statutes was also conducted by the project team. Stakeholder dialogue and guidance served to assist the project team in gradually narrowing the focus of this comparative analysis to the following statutes:

1. SAFETEA-LU: Coordinated Planning Requirements for FTA Sections 5310, 5316 and 5317)
2. Americans with Disabilities Act (ADA): ADA complementary paratransit
3. Older Americans Act: Transportation program
4. Medicaid/Medi-Cal Transportation Program: Non-emergency medical transportation (NEMT)
5. Social Services Transportation Improvement Act (SSTIA): Action Plan Requirements and designation of Consolidated Transportation Services Agencies (CTSAs)
6. Transportation Development Act (TDA): Unmet Needs Process and CTSA funding

The criteria used and the results of this analysis are presented below.

Methodology and Criteria Used for Analysis

The project team established two (2) evaluation criteria to assist in identifying areas of duplication and/or conflict between the six key statutes:

1. **Regulatory Intent** – What purpose(s) and/or objective(s) does the overall statute/regulation serve?
2. **Legislative Compliance Requirements** – What actions are required to comply with the relevant sections of statute/legislation?

Analysis Results

Table 1 below was developed by the project team to illustrate the relationship between the key statutes and the evaluation criteria, specifically in response to the question of whether duplication and/or conflict exists between the statutes. A follow-up discussion of the findings are also presented below.

Table 1
Legislative Comparison and Analysis

Statute: Section	Criteria #1: Regulatory Intent	Criteria #2: Legislative Compliance Requirement	Duplication/Overlap (Yes/No?)	Conflict (Yes/No?)
SAFETEA-LU: Coordinated Planning Requirements for FTA Sections 5310, 5316 and 5317	Provided new funding eligibility requirement for the development of coordination plans in order to be eligible to receive funding under Sections 5310, 5316 and 5317 of the Act; and Use of federal non-DOT program funding to meet matching requirements for coordinated transportation services supported under the Act. SAFETEA-LU reauthorized the Transportation for Elderly Persons and Persons with Disabilities Act (49 U.S.C 5310), which was originally enacted in 1975 and has been important in filling gaps in the transportation of the elderly and the disabled not covered by the Americans with Disabilities Act (ADA).	RTPAs must develop Public Transit -Human Service Coordinated plans. Requires that projects selected for funding under the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC), and New Freedom programs be derived from a locally developed, coordinated public transit-human services transportation plan. *The plan must be developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public. The Coordinated plans must identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation*.	No duplication or overlap for criteria #1. Yes duplication and overlay exist for criteria #2. Applicable Statute: 5/1/2007 FTA C9070.1F Chapter V – Coordinated Planning § 2.b. 1-4	No conflict for all criteria.
Americans with Disabilities Act (ADA): ADA complementary paratransit	The Act gives civil rights protections to individuals with disabilities similar to protections given to individuals on the basis of race, national origin, sex, age, and religion. It guarantees equal opportunity for individuals with disabilities to access public accommodations, to compete for employment opportunities, to use transportation facilities, state and local government services and telecommunications.	Title II requires public entities to ensure that all vehicles used to transport the public be "readily accessible and usable by persons with disabilities". In addition, • A public entity operating a fixed route system has to provide a complementary paratransit or other special service to persons with disabilities. To qualify as complementary, the service has to: o Provide service within a width of three-fourths of mile on every side of each fixed route, so essentially it is a mile and a half boundary. o Provide paratransit service to any ADA eligible person at a specified time in response to that person's request made the previous day. Reservations can be taken by an agent or by a computer. o Charge a fare that does not exceed twice the fare that would be charged to a person paying a full fare at the similar time of day on the entity's fixed route. o Provide service during the same hours as the fixed route service. • The public entity cannot: o Impose restrictions on the type of trip o Restrict the number of trips a person can take o Impose waiting lists for access to the service o Have a pattern or practice that significantly limits the availability of the service, e.g. untimely pickups, trip denials or missed trips, or trips with excessive lengths. • A personal attendant, family member or a friend who is accompanying the disabled individual is allowed to ride with him/her. • The public entity has to develop a process for establishing the eligibility of persons who are able to ride the paratransit service. • Allow visitors (persons who do not reside in the entity's jurisdiction) to access the complementary service. The service has to be available to the visitor for any combination of 21 days during a 365 day period.	No duplication or overlap for all criteria.	No conflict for all criteria.

Statute: Section	Criteria #1: Regulatory Intent	Criteria #2: Legislative Compliance Requirement	Duplication/Overlap (Yes/No?)	Conflict (Yes/No?)
Older Americans Act: Transportation Program	Enacted in 1965 to promote the well being of older adults and help them remain independent in their homes and communities. The OAA set up a federal program to distribute funds to states using a formula based on the state's share of people over 60. The Act focused on organizing and delivering community-based services by coordinating with state level agencies. Programs funded by the act now reflect a broad community-based long-term care structure which includes senior centers, volunteer programs and recreational activities.	Transportation program provides grants to states "to facilitate access to supportive services or nutrition services," and services provided by an area agency on aging in conjunction with local transportation service providers (or other transportation agencies) that result in better transportation services to older individuals."		No conflict for all criteria.
Medicaid/Medi-Cal Transportation Programs: Non-emergency medical transportation program (NEMT)	A federal-state partnership that was created in by Congress in 1965 to finance health care for the nation's low-income persons. All 50 states and territories participate and administer their own Medicaid programs. The CMS rule on Medicaid transportation requires that a state plan must "specify that the Medicaid agency will ensure *necessary transportation* for recipients".	States have great flexibility in meeting the mandate of assuring medical transportation. California assures for the necessary transportation of Medi-Cal recipients by providing in the California Administrative Code that: "Medical transportation services means the transportation of the sick, injured, invalid, convalescent, infirm or otherwise incapacitated persons by ambulances, litter vans or wheelchair vans licensed, operated, and equipped in accordance with applicable state or local statutes, ordinances or regulations. Medical transportation services do not include transportation of beneficiaries by passenger car, taxicabs or other forms of public or private conveyances."	No duplication or overlap for all criteria.	No conflict for all criteria.
Social Service Transportation Improvement Act (SSTIA): Action Plan Requirements and Designation of CTSAs	The Act was enacted as AB 120 in 1979 to "improve transportation service required by social service recipients by promoting the consolidation of social service transportation services."	The SSTIA *requires TPA to adopt and an Action Plan identifying deficiencies in existing services. The action plans must include: designation of a CTSA within the geographic area of jurisdiction of the TPA, Identify social service recipients to be served, available funding , strategy and schedule for financial program management structure, and measures to coordinate social service transportation services with existing fixed-route transportation providers.*	No duplication or overlap for criteria #1. Yes duplication and overlay exist for criteria #2. Applicable Statute: 1979 Cal. Government Code: Part 13 (commencing with Section 15950) Division 3, Title 2: Chapter 4 § 15973/15975.	No conflict for all criteria.
Transportation Development Act (TDA): Unmet Needs Process and CTSA funding	Enacted in 1971, the Act provides funding to "meet the transit needs that exist in California". The TDA provides funding to be allocated to transit and non-transit related purposes that comply with regional transportation plans. - Under Article 8 TPAs in rural counties and areas with population of 500,000 or less must annually identify and assess unmet needs within the county. - CTSAs (designated by the SSTIA) are funded under articles 4.5 and 6.5 of the TDA.	Before making an allocation of TDA funds, the Transportation Planning Agency must "consult with the Social Service Transportation Advisory Council (SSTAC); *identify transit needs of the jurisdiction; annually assess the size and location of identifiable groups likely to be disadvantaged... identify unmet transit needs of the jurisdiction and those needs that are reasonable to meet". TPAs must also hold at least one public hearing to solicit comments on any unmet transit needs that may exist.* *- Under article 4.5, five percent of the funds allocated to the transportation planning agencies may be requested by CTSAs for "community transit service," which has to be used to provide services to the seniors and persons with disabilities.*	No duplication or overlap for criteria #1. Yes duplication and overlay exist for criteria #2. Applicable Statute: California Public Utilities Code Chapter 4. Transportation Development - Article 8 (Other Claims for Funds) (99400) § 99401.5.	No conflict for all criteria.

Note: Italicized text illustrates duplication in statute compliance requirements.

Criteria #1 Regulatory Intent

All of the statutes researched were enacted at various times over the last 40+ years and were intended to respond to the mobility challenges faced by public transportation and human services at that time, and into the future.

With the exception of the ADA and the SSTIA the statutes researched have provisions that directly and/or indirectly fund specialized transportation programs for the target populations (seniors, persons with disabilities and low income individuals) and establish rules, guidelines and procedures related to program/project eligibility and subsequent allocation of funding. The ADA and the SSTIA created new social service requirements (accessibility for persons with disabilities and CTSAs, respectively) which must be funded using other sources.

The project team did not identify duplication or conflict in regulatory intent as each statute was at the outset, intended to address different aspects of the issues of improvement of transportation services, and access and enhancement of mobility options for the general public and for hard to serve populations. Each of the statues is unique and they all take a different approach to improving mobility in California.

Criteria #1 Legislative Compliance Requirements

In our review of the statutes to ascertain whether there is duplication and/or conflict in the area of compliance (i.e., what actions are required to comply with the statute?) the project team determined that there is no conflict, but there is duplication/overlap in the compliance requirements associated with the following statutes:

1. SAFETEA-LU Coordinated Planning
2. SSTIA – Action Plan
3. TDA –Unmet Needs Hearings

Under SAFETEA-LU coordinated planning requirements the designated recipient (typically the RTPA or MPO in the county) must develop a Coordinated Plan. There are four plan development requirements, which include:

"1. An assessment of available services that identifies current transportation providers; 2. An assessment of transportation needs for individuals with disabilities, older adults and people with low incomes…3. Strategies, activities and/or projects to address the identified gaps between current services and needs..4. Priorities for implementation…"[194]

The SSTIA requires RTPAs to develop an Action Plan which includes an inventory of *"existing public and private social service transportation services within the RTPA's geographic area of jurisdiction; Identification of social service recipients, their needs, and funding sources available to address those needs and efforts to coordinate social service transportation services within existing fixed route transportation systems".*[195]

The TDA has a requirement for RTPAs under the Unmet Needs process to *"identify the unmet transit needs of the jurisdiction".* As shown in Table 1, these agencies must hold a public hearing to solicit comments on "*unmet transit needs that may exist*".

These three statutes are duplicative and overlap in two ways:

- Duplication of effort in conducting outreach and stakeholder involvement efforts and activities to inventory and/or collect qualitative and quantitative data and information on existing transportation needs and resources; and

- Duplication of documented outcomes (transportation needs and services).

Conceivably, some RTPAs in the state could potentially conduct up to three (3) separate planning efforts in some years to ensure their agency's compliance with each of these statutes. This would not apply in cases where RTPAs have already incorporated the action plan requirements into their coordinated transportation plans and/or if these agencies have already integrated both efforts into their county's regional transportation planning process. This duplication is an inefficient use of both financial and personnel resources, and is further exacerbated by the fact that the target populations covered under these requirements and the documented outcomes are, and should logically be the same or similar.

Over the course of the study the MAP PAC and other stakeholders did recognize that there was duplicative information being collected during the transportation needs assessment of the coordinated planning process, and during the unmet needs hearings. As a result, a recommended unmet needs strategy was developed to append the results of the unmet needs hearings into updated coordinated plans. Although this recommendation begins the process of integrating two of the three requirements in terms of the needs and resources documentation, it is does not fully address the issue of duplication of effort by the RPTA to conduct stakeholder outreach activities to receive input.

As alluded to previously, to mitigate the impacts of duplication of effort in some counties RTPAs have employed a two-tiered strategy to administratively combine the action plan inventory requirements into the coordinated planning process, and integrated coordinated plan updates into their regional transportation planning process. This strategy can effectively eliminate duplication and overlap to ensure a more effective and efficient use of agency resources and will likely increase the involvement of human service agency stakeholders in the regional transportation planning process in the long-term.

CONCLUSION

Recommended Strategies Proposed for Implementation

The legislative research and analytical work effort conducted by members of the project team facilitated the identification of five (5) key legislative and policy-related issues, which resulted in the development of fourteen (14) alternatives for consideration by Caltrans, the Department of Aging, the MAP PAC, CTSAs and other study stakeholders These alternatives were subsequently discussed and evaluated in an effort to develop the recommended strategies for state implementation detailed in this report.

There were a total of eleven (11) policy-related strategies recommended to be implemented by the state, specifically Caltrans DMT. Only one strategy will require formal legislative action to implement. Not all alternatives considered by study stakeholders during strategic discussions resulted in strategies that could be implemented by the state.

In the development of recommended strategies study stakeholders remained cognizant of the fact that budget constraints and the associated fiscal impacts would continue to dictate the

state's near-term priorities in all areas including transportation and health and human services, and would likely limit or preclude Caltrans' ability to seek legislative, policy-related and/or immediate remedies related to clearing the pathway to coordination. It was also understood that Caltrans' ability to implement some alternatives would be challenged, as alternatives considered for implementation were outside of their legal and/or administrative authority to implement.

The recommended strategies outlined in this report are predominantly administrative in nature, with the exception of one. Nevertheless, implementation of these strategies will require a sustained and substantial effort by Caltrans DMT working cooperatively with other state departments, the MAP PAC and other public transit and human service agency and organization stakeholders to ensure progress toward implementation of these strategies. The implications and actions necessary to implement the recommended policy-related strategies, as well as, other general recommendations associated with the study will be discussed in detail in the SIP.

Appendix A

Matrix of Relevant Federal and State Statutes

FEDERAL STATUTES:

Year	Statutory Citation	Title/Purpose	Description
1965	42 UCSA § 1396 et seq.	Medicaid	Medicaid is a federal-state partnership that was created in by Congress in 1965 (Title XIX of the Social Security Act) to finance health care for the nation's poor people. Medicaid is an optional program, where states can choose to participate; however all 50 states and territories participate and administer their own Medicaid programs. Medicaid has evolved to become three programs in one: 1) A health financing program for low-income parents (mostly women) and children; 2) A health financing program for people with significant disabilities; and 3) A long-term care financing program for low-income elderly people.
1978	42 USCA § 3030d	The Older Americans Act - Title III-B	Provides grants to states "to facilitate access to supportive services or nutrition services," and services provided by an area agency on aging in conjunction with local transportation service providers (or other transportation agencies) that result in better transportation services to older individuals."
1990	42 USCA § 1201 et seq.	The Americans with Disabilities Act of 1990	Title I of the act prohibits private employers, state and local governments, employment agencies and labor unions from discriminating in all employment practices,

Year	Statutory Citation	Title/Purpose	Description
			which also includes job applicants. Title II prohibits public entities from discriminating against persons with disabilities in all programs, activities, and services of public entities. It also prohibits private entities from discriminating against persons with disabilities if they engage in public transportation. Details requirements for both public and private transportation agencies.
1991	49 CFR 37 et seq.	Transportation Services for Individuals with Disabilities	The FTA's rules interpreting and explaining how the ADA affects transporting those with disabilities.
1996	49 USCA § 5310	Capital and Training Assistance Program for Over-the Road Bus Accessibility	To make vehicles wheelchair accessible and training required by ADA
1996	49 USCA § 5310	Capital and Training Assistance Program for Elderly Persons and Persons with Disabilities	Assistance in purchasing vehicles, contract for services
2000	42 USCA § 3032e	The Older Americans Act - Technical Assistance Grants	Allows the Secretary of the AoA to issue grants or contracts to nonprofit organizations to improve transportation services for older individuals
2004	George W. Bush, *Executive Order on Human Service Transportation Coordination*, EO #13330, February 2004.		Expanded the Coordinating Council on Access and Mobility (CCAM) by creating the Interagency Transportation Coordinating Council on Access Mobility; requires the Council to eliminate duplicative and overlapping federal programs and improve the coordination of federally supported transportation.
2005	49 USCA § 5316	Jobs Access and Reverse Commute Program	Improves access to transportation services to employment and

Year	Statutory Citation	Title/Purpose	Description
			employment related activities for low-income individuals and welfare recipients; also transports residents of urbanized areas and non-urbanized areas for suburban related employment opportunities.
2005	49 USCA § 5317	New Freedom Program	Provides new public transportation services to overcome barriers that Americans with disabilities have seeking to participate in the workforce; federal grants would allow private nonprofit organizations, state or local governmental authorities, and operators of public transportation services to fund various activities. Expands the requirements under The Americans with Disabilities Act of 1990.

CALIFORNIA STATUTES:

Year	Statutory Citation	Title/Purpose	Description
1971	Cal. Public Utilities Code § 99220 et seq. (West 2008)	Transportation Development Act	The Transportation Development Act consists of nine articles in the California Public Utilities Code, which makes it lengthy in both size and detail. Because of the size of the state, the public transportation system needs to be continually maintained and developed to allow for the efficient and orderly movement of people and goods. To that end, the TDA specifies in great detail how public transportation is to be funded by state resources. Declares that public transportation is an essential component to a balanced transportation system that needs to be continually maintained and developed; because public transportation is so important it should be designed to encourage use by the elderly, the handicapped, the youth, and those with limited means to freely use the system Provides funding to CTSAs created under the Social Service Transportation Improvement Act. See Cal. Public Utilities Code § 99275 et seq. (West 2008) and
1971	Cal. Welfare and Institutions Code §§ 14132(i) and 14132(s) (West 2008)	Medi-Cal	Medical transportation is one of the scheduled benefits covered under the code; in-home medical care services are covered for persons that require care for an extended period of time in a hospital at a cost that would be higher than in-home medical care
1971	Cal. Welfare and	Medi-Cal	Transportation to and from

Year	Statutory Citation	Title/Purpose	Description
	Institutions Code § 14133.56 (West 2008)		dialysis treatment has to be approved for a period up to a year when the patient has received transportation services for the preceding twelve months; the request for transportation to and from dialysis treatment has to be supported by a physician's statement stating that the patient's condition is unlikely to improve.
1971	Cal. Welfare and Institutions Code § 14136.1 (West 2008)	Medi-Cal	A patient that requires continuous intravenous medication, medical monitoring, or observation during transportation to a medical facility has to be transported by an ambulance.
1971	Cal. Welfare and Institutions Code § 14136.3 (West 2008)	Medi-Cal	No authorization is required for nonemergency transportation when the patient is to be transported from an acute hospital facility following a stay at an impatient to a nursing facility or any immediate care facility for the developmentally disabled.
1976	Cal. Welfare and Institutions Code § 9400 (West 2008)	Local units on aging - Service Delivery Plans	Requires local area agency on aging agencies to operate in compliance with the OAA and create a plan that details how to provide better services to the elderly through improved transportation, referral, outreach, and advocating.
1976	Cal. Public Utilities Code § 99275 et seq. (West 2008)	Transportation Development Funding - Article 4.5 of the TDA	Transit agencies can file claims with a transportation planning agency for community transit services, including the disabled and for those who cannot use conventional transit services; requires transportation planning agencies to adopt criteria, rules, and regulations in order to be able to evaluate

Year	Statutory Citation	Title/Purpose	Description
			filed claims; details the findings the transportation planning agency has to find before granting the claim; requires the transit agency that received funds to submit an annual of audit of how the funds were spent.
1979	Cal. Government Code § 15950 et seq. (West 2008)	Social Service Transportation Improvement Act	Was enacted to improve transportation service of social service recipients by combining the purchase of necessary equipment; providing adequate training to drivers; having a centralized dispatching system; having a centralized maintenance system; and a centralized administration; so that all funding could be identified and consolidated. Required transportation planning agencies and county transportation commissions to create an action plan that designates either a transportation planning agency or a county transportation commission as the agency that will consolidate the transportation services in a certain geographic region. An action plan may designate more than one agency (or even multiple agencies) as consolidated transportation service agencies (CTSA) if it can be proved that it would improve the coordination of services in a geographic area. The Legislature repealed the requirement that requires transportation planning agencies and other agencies, on a regular basis, to report to the Director of Transportation relative to social services transportation services and

Year	Statutory Citation	Title/Purpose	Description
			related matters, and to prepare an inventory of services and an action plan for service consolidation.
1980	Cal. Welfare and Institutions Code § 19460 (West 2008)	Rehabilitation Revolving Loan Guarantee Fund	Can be used to guarantee loans made by eligible lenders to eligible persons for the purchase of funds, automobiles, and other equipment to facilitate the transportation of the disabled, and to assist employers with technology so employers can live more independently or engage in employment.
1982	Cal. Public Utilities Code § 99310 et seq. (West 2008)	Transportation Development Funding - Article 6.5 of the TDA	Article 6.5 sets forth rules for funding both transportation planning and mass transit purposes. The funds are derived from remaining revenues from the state retail sales tax, and have to be allocated to the each county's transportation planning agency, and are allocated based upon that county's ratio of the population of the area to the total population of the state.
1983	Cal. Education Code § 82305.6 (West 2008)	Transportation Costs for Disabled Students	Governing boards of community colleges district to waive the transportation costs for disabled students.
1986	Cal. Public Utilities Code § 99155 et seq. (West 2008)	Reduced fares for Medicare recipients	Every transit operator (whether publicly or privately funded) that offers reduced fares to senior citizens has to honor the federal Medicare identification card as sufficient identification in order to receive reduced fares; these transit operators also have to offer reduced fares to disabled persons and disabled veterans
1987	Cal. Public Utilities Code § 99238 (West	Social Services Transportation Advisory Council	Requires that each transportation planning agency establish a social

Year	Statutory Citation	Title/Purpose	Description
	2008)		services transportation advisory council for each county or counties under a joint powers agreement, which has to consist of certain types of representatives
1987	Cal. Public Utilities Code § 99238.5 (West 2008)	Citizen Participation Process	The Transportation Planning Agency then is required to set up a citizen participation process by using the Social Service Transportation Advisory Council. The process has to obtain input from the transit dependent and transit disadvantaged persons, including the elderly, handicapped, and persons of limited means. The council is required to meet at least once, with broad community participation.
1987	Cal. Revenue and Taxation Code § 10789 (West 2008)	License fee waiver for specialized transportation providers	Waives the license fee for vehicles that provides specialized transportation services to senior citizens and to the disabled for nonprofit organizations, public benefit consolidated transportation service agencies.
1988	Cal. Government Code § 15984 (West 2008)	Technical Assistance to Paratransit Providers	Requires DMT to provide technical assistance to who want to explore coordination strategies, but lack the capability to implement and implement the strategies.
1996	Cal. Welfare and Institutions Code § 9400 (West 2008)	Mello-Granlund Older Californians Act	Local Units on Aging are required to operate in compliance with the Older Americans Act and its applicable regulations; the local units are required to create a plan that details how to provide better services to the elderly through improved transportation, referral, outreach, and advocating.
1996	Cal. Government Code § 66516.5	Metropolitan Transportation Commission	Allows the Metropolitan Transportation Commission

Year	Statutory Citation	Title/Purpose	Description
	(West 2008)		(MTC) to consult with regional transit coordinating councils to identify functions performed by public transit systems that could be consolidated to improve the efficiency of regional transit services, and recommend that those functions be consolidated and performed through inter-operator agreements or by one agency. The MTC may also improve service coordination and effectiveness in transit corridors by recommending improvements such as reduction of duplicative service and the institution of coordinated service across public transit system boundaries.
1996	Cal. Government Code § 14055 et seq. (West 2008)	Elderly and Disabled Persons Transportation Program	Persons with disabilities and elderly persons have the same rights to use mass transportation facilities and services; specifies a funding source.
1999	Cal. Welfare and Institutions Code § 9101.5 (West 2008)	Long Range Strategic Plan for an Aging California Population	Directs the University of California to study existing resources and the administrative structure that is available to address the needs of the state's aging population. The report had to detail its findings and recommendations, and advise any steps for implementation. The report was due to the Legislature on January 1, 2002, and shall be periodically updated.

Appendix B

Mobility Action Plan Phase I Implementation Study

Final Report Outline
Assessing Human Service Transportation Coordination in California: An Analysis of Legal and Regulatory Obstacles
National Conference of State Legislatures

September 1, 2009

[Background Note: In conjunction with JNTC, the National Conference of State Legislatures has been researching relevant provisions of the U.S Code, the Code of Federal Regulations, the California State Constitution, the applicable California Codes and the California Code of Regulations to identify state and federal laws and regulations related to human services transportation coordination programs. The objective is to identify restrictive and duplicative laws and regulations that impede transportation coordination and develop findings and recommendations to remove or mitigate impediments to coordination. The following framework will be used to organize the analysis.]

I. Background and history of the relevant statutes and acts.
   a. Relevant Federal statutes--
      i. Executive Order 13330
      ii. SAFETEA-LU, Sec. 5310, 5316, 5317
      iii. Americans with Disabilities Act
      iv. Older Americans Act
      v. Medi-Cal and the Medicaid Transportation Program

   b. Relevant California statutes
      i. Social Services Transportation Improvement Act
      ii. Transportation Development Act

II. Identification, statement of problem, background and analysis of issues surfaced through research, MAP PAC meetings, regional meeting and surveys.
      i. Description of the "Unmet Needs" process and how implemented.
      ii. The viability of CTSAs—their utility in coordination, how implemented, etc.
      iii. Reporting issues—including the previous requirement for reporting to DMT and how the SAFETEA-LU coordination plans are currently used.
      iv. Medi-Cal reimbursement rules and limitations that hinder coordination.
      v. The new CMS brokerage rule and its potential implementation.
      vi. Insurance issues that hinder coordination.
      vii. Crossing state lines, other jurisdictional issues.
      viii. Other issues that need additional development--

1. Funding, budget shortfalls, meeting ongoing needs, etc.
2. Legislative oversight issues generally
3. Information dissemination

III. Any recommended changes or revisions to the statutes and acts based on issue analysis
   a. Identification of statutory language and implementation practices that impede coordination between agencies and organizations involved in human services transportation.
   b. Compare to selected other states, as appropriate.
   c. Recommended changes to address each impediment identified. (Possibilities include a statewide coordinating council and various mobility management approaches.)

IV. Impacts to the Mobility Action Plan (MAP) study, if any
   a. Association of recommended changes to MAP
   b. Suggested incorporation of changes into MAP, if appropriate

V. Practical and policy implications for incorporation into the Statewide Implementation Plan (SIP)
   a. To be determined

VI. Appendices
   a. Matrix of relevant statutes including year, citation, title and purpose, description, and duplication and conflicting requirements with other laws, if any.
   b. Glossary of terms

Prepared/revised by Jim Reed, NCSL, 9-1-09

Appendix C

Glossary of Public Transit and Human Service Transportation Terms Derived from the National Transit Database Glossary with Additions Requested by the MAP PAC (http://www.ntdprogram.gov/ntdprogram/Glossary.htm)

ADA

Americans with Disabilities Act of 1990.

ADA Accessible Stations

Public transportation passenger facilities, which provide ready access, and do not have physical barriers that prohibit and / or restrict access by individuals with disabilities, including individuals who use wheelchairs. Refer to 49 CFR Part 37, Appendix.

Americans with Disabilities Act of 1990 (ADA)

The legislation defining the responsibilities of and requirements for transportation providers to make transportation accessible to individuals with disabilities.

Annual Passenger Trips

The number of passengers who board operational revenue vehicles. Passengers are counted each time they board vehicles no matter how many vehicles they use to travel from their origin to their destination. Trips should be counted regardless of whether an individual fare is collected for each leg of travel. It includes passenger trips on volunteer vehicles.

Annual Vehicle Miles

The total number of miles for the reporting period that all vehicles travel from the time they pull out to go into revenue service to the time they pull in from revenue service. This includes the miles of personal vehicles used in service.

Area Agency on Aging

A network of local area agencies throughout the state contracted by the California Department of Aging (CDA) who directly manage a wide array of federal and state-funded services that help older adults find employment; support older and disabled individuals to live as independently as possible in the community; promote healthy aging and community involvement; and assists family members in their vital care giving role.

Brokerage System

An association of transportation providers managed by a broker or agent who makes transportation arrangements on behalf of a social service or healthcare agency/entity designed to serve a specific clientele (e.g., seniors and persons with disabilities). The transportation providers in a brokerage system are typically social service agencies and taxicab operators. The

broker may be the transit agency directly or the transit agency may contract with an individual or firm to operate the brokerage system.

California Administrative Code

The administrative code is a set of rules issued by a state agency is. A state agency is created when the legislature delegates it rule making authority to the agency. The grant of power can be vague, but has to contain sufficient standards to guide the agency's exercise of its powers. When an agency wants to issue a rule, it must first publish the proposed rule in the state register, allow a period of public notice and comment, and then publish those final rules in the California Administrative Code

California Constitution

A constitution is a written instrument embodying the rules of a political or social organization. The first California state constitution was adopted in November 1849, and then superseded by a new constitution in 1879, which is still in effect today. Early in the 20th century, the constitution was amended to make it easier for the constitution to be amended by the initiative process. From 1911 to 1986, the constitution was amended over 500 times. In 1962, because of how expanded the constitution had become, a California Constitution Revision Commission was formed, which at its completion had removed 40,000 words from the 75,000 word document.

California Department of Aging

The California Department of Aging (CDA) administers programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities throughout the State. The Department administers funds allocated under the federal Older Americans Act, the Older Californians Act, and through the Medi-Cal program.

California Statutory Code

The code is the backbone of the state government. It consists of twenty-nine various codes on different subject areas from laws organizing the state government to food and agriculture laws. The Government Code, the Public Utilities Code, and the Welfare and Institutions Code contain the statutes that apply to human service transportation coordination. In terms of the way a statute is cited, the current year on statutory citations is to indicate that the statute has neither been amended nor repealed by the state legislature. The publisher Thomson/West publishes the state's statutes, so that is why their name is reflected in California statutory citations.

Capital Costs

The expenses incurred within the year related to the purchase of facilities, vehicles and equipment.

Casualty and Liability Costs (506)

The cost elements covering protection of the transit agency from loss through insurance programs, compensation of others for their losses due to acts for which the transit agency is liable, and recognition of the cost of a miscellaneous category of corporate losses.

Charter Service

A vehicle hired for exclusive use that does not operate over a regular route, on a regular schedule and is not available to the general public.

Community

Service operated primarily within the boundaries of a community that is not considered a municipality, county/independent city or parish.

Commuter Rail (CR)

A transit mode that is an electric or diesel propelled railway for urban passenger train service consisting of local short distance travel operating between a central city and adjacent suburbs. Service must be operated on a regular basis by or under contract with a transit operator for the purpose of transporting passengers within urbanized areas (UZAs), or between urbanized areas and outlying areas. Such rail service, using either locomotive hauled or self-propelled railroad passenger cars, is generally characterized by multi-trip tickets, specific station to station fares, railroad employment practices, and usually only one or two stations in the central business district.

It does not include heavy rail (HR) rapid transit, or light rail (LR) / streetcar transit service. Intercity rail service is excluded, except for that portion of such service that is operated by or under contract with a public transit agency for predominantly commuter services. Predominantly commuter service means that for any given trip segment (i.e., distance between any two stations), more than 50 percent of the average daily ridership travels on the train at least three times a week. Only the predominantly commuter service portion of an intercity route is eligible for inclusion when determining commuter rail (CR) route miles.

Complementary Paratransit Services

Transportation service required by the Americans with Disabilities Act (ADA) for individuals with disabilities who are unable to use fixed route transportation systems. This service must be comparable to the level of service provided to individuals without disabilities who use the fixed route system and meet the requirements specified in Sections 37.123-137.133 of *Transportation Services for Individuals with Disabilities (Part 37), Code of Federal Regulations, Title 49, Volume 1*. The complementary services must be origin-to-destination service (demand response (DR)) or on-call demand response (DR) service to an accessible fixed route where such service enables the individual to use the fixed route bus (MB) system for his or her trip.

Consolidated Transportation Service Agencies (CTSA)

Defined by the Transportation Development Act in Cal. Public Utilities Code 99204.5 as: "Consolidated transportation service agency" means an agency designated pursuant to subdivision (a) of Section 15975 of the Government Code. This is a reference to the Social Service Transportation Improvement Act (SSTIA). A derived definition by Cal ACT from SSTIA is as follows: "Consolidated Transportation Services Agencies (CTSAs) are designated by county transportation commissions, local transportation commissions, regional transportation planning agencies, or metropolitan planning agencies under auspices of the Social Services Transportation Improvement Act to achieve the intended transportation coordination goals of that Act." (California Association for Coordinated Transportation, *CTSA e-Book*)

Cooperative Agreement

An agreement where one or more public transit agencies or governmental units contribute to, or are assessed for, the value of public transit services provided by another public transit agency. There is usually a written memorandum of understanding or mutual agreement on the calculation and payment for the services. Generally, the service is part of the public transit agency's directly operated (DO) service.

Customer Services (162)

Component activities include providing supervision and clerical support for public information and customer relations activities, selling and arranging for the provision of charter services providing route information in passenger stations and at other points along the transit way, providing telephone information service, handling customer complaints and administering a lost and found operation.

Demand Response (DR)

A transit mode comprised of passenger cars, vans or small buses operating in response to calls from passengers or their agents to the transit operator, who then dispatches a vehicle to pick up the passengers and transport them to their destinations. A demand response (DR) operation is characterized by the following a) the vehicles do not operate over a fixed route or on a fixed schedule except, perhaps, on a temporary basis to satisfy a special need, and b) typically, the vehicle may be dispatched to pick up several passengers at different pick-up points before taking them to their respective destinations and may even be interrupted en route to these destinations to pick up other passengers.

Demand Response Service

Shared use transit service operating in response to calls from passengers or their agents to the transit operator, who schedules a vehicle to pick up the passengers to transport them to their destinations.

Deviated Fixed Route Service

Transit service that operates along a fixed alignment or path at generally fixed times, but may deviate from the route alignment to collect or drop off passengers who have requested the deviation.

Executive Order

An order issued by or on behalf of the Governor, usually intended to direct or instruct the actions of executive agencies or government officials, or to set policies for the executive branch to follow.

Fare Revenues

All income received directly from passengers, either paid in cash or through pre-paid tickets, passes, etc. It includes donations from those passengers who donate money on the vehicle. It includes the reduced fares paid by passengers in a user-side subsidy arrangement.

Federal Operating Assistance

Financial assistance from the Federal Transit Administration to assist in paying the operating costs of providing transit service.

Fixed Guideway (FG)

A public transportation facility using and occupying a separate right-of-way (ROW) or rail for the exclusive use of public transportation and other high occupancy vehicles (HOV) or a fixed catenary system useable by other forms of transportation.

Fixed Route Service

Transit service using rubber tired passenger vehicles operating on fixed routes and schedules, regardless of whether a passenger actively requests a vehicle.

FTA

Federal Transit Administration.

FTA Grant Program

Financial assistance from FTA programs. These funds include:

- FTA Capital Program (§5309)
- FTA Urbanized Area Formula Program (§5307)
- FTA Clean Fuels Program (§5308)
- FTA Metropolitan Planning (§5303)
- FTA Special Needs of Elderly Individuals and Individuals with Disabilities Formula Program (§5310)
- FTA Other Than Urbanized Area Formula Program (§5311)
- FTA Research, Development, Demonstration and Training Projects (§5312)
- FTA Job Access and Reverse Commute Formula Program (§5316)
- FTA New Freedom Program (§5317)
- FTA Transit in the Park (§5320)
- Interstate Transfer Program

Heavy Rail (HR)

A transit mode that is an electric railway with the capacity for a heavy volume of traffic. It is characterized by high speed and rapid acceleration passenger rail cars operating singly or in multi-car trains on fixed rails, separate rights-of-way (ROW) from which all other vehicular and foot traffic are excluded, sophisticated signaling, and high platform loading.

Intercity Bus Service

Regularly scheduled bus (MB) service for the general public, using an over-the-road bus (MB), that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity or connecting one or more rural communities with an urban area not in close proximity, has the capacity for transporting baggage carried by passengers, and makes meaningful connections with scheduled intercity bus (MB) service to more distant points.

JARC

FTA Section 5316 Job Access and Reverse Commute Program.

Jitney (JT)

A transit mode comprised of passenger cars or vans operating on fixed routes (sometimes with minor deviations) as demand warrants without fixed schedules or fixed stops.

Joint Powers Agency

Two or more public agencies, when authorized by their governing authority, to enter into agreements to jointly exercise any power common to the contracting parties. The agency or entity provided by the agreement to administer or execute the agreement may be one or more of the parties to the agreement or a commission or board constituted pursuant to the agreement or a person or a firm or corporation, including a nonprofit corporation designated in the agreement. The administering agency is a public entity separate from the parties to the agreement and shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. As a general proposition, there are no new powers but merely a new procedure for the exercise of existing powers.

Leases and Rentals (512)

The payments for the use of capital assets not owned by the transit agency. True leases are those in which the lessor and lessee are not related parties, the total lease payments cover the lessor's cost of the property for the period of the lease plus interest, or the ownership of the property remains with the lessor upon expiration of the lease. For the true lease, this object class includes the lease payments on true lease property. Reporting manual reference: F-40

Light Rail (LR)

A transit mode that typically is an electric railway with a light volume traffic capacity compared to heavy rail (HR). It is characterized by passenger rail cars operating singly (or in short, usually two car, trains) on fixed rails in shared or exclusive right-of-way (ROW), low or high platform loading, and vehicle power drawn from an overhead electric line via a trolley or a pantograph.

Linked Passenger Trip

A trip from origin to destination on the transit system. Even if a person must make several transfers during a journey, the trip is counted as one linked trip on the system.

Local Operating Funds

Financial assistance from local entities that support the operation of the transit system. They include, but are not limited to:

- Tax levies — A specified amount from local levies that is dedicated to supporting public transit system operating costs.

- General funds — Transfers from the general fund of local governments to cover the Local Share portion of the transit system budget.
- Specified contributions — Contributions from city, county or other municipal government towards the Local Share portion of the transit system budget.
- Donations — Donations from individuals or organizations to help cover the costs of providing transit service but which are not related to specific passengers or trips.
- Other — Other revenues such as advertising.

Mass Transportation

Synonymous term with public transportation.

Mobility Management

Mobility management is the concept of making innovative use of transportation services through multi-agency partnerships resources to meet customer needs. More precisely, as defined by the Federal Transit Administration, " Mobility management is an approach to service development and management that focuses on individualized customer markets and involves establishing a variety of services tailored to meet the needs of those markets." Some state and local governments have hired mobility managers to implement these policies. A local mobility manger is empowered to design, coordinate or navigate the network of available transportation and mobility services in the community on behalf of users.

Minivans (MV)

A light duty vehicle having a typical seating capacity of up to 7 passengers and a driver. A minivan is smaller, lower, and more streamlined than a full-sized van, but it is typically taller and with a higher floor than a passenger car, such as a hatchback or station wagon. Minivans normally cannot accommodate standing passengers.

Mode

A system for carrying transit passengers described by specific right-of-way (ROW), technology and operational features.

Monorail (MO)

A transit mode that is an electric railway of guided transit vehicles operating singly or in multi-car trains. The vehicles are suspended from or straddle a guideway formed by a single beam, rail or tube.

Motor Bus (MB)

A transit mode comprised of rubber-tired passenger vehicles operating on fixed routes and schedules over roadways. Vehicles are powered by diesel, gasoline, battery, or alternative fuel engines contained within the vehicle.

Non-Emergency Medical Transportation (NEMT)

As found in the Cal. Code of Regulations (Cal. Admin. Code tit. 22, § 51151.7): "Non-emergency medical transportation means transportation by ambulance, litter van and

wheelchair van of the sick, injured, invalid, convalescent, infirm or otherwise incapacitated persons whose medical conditions require medical transportation services but do not require emergency services or equipment during transport."

Older Americans Act

Enacted in 1965 to promote the well being of older adults and help them remain independent in their homes and communities. The OAA set up a federal program to distribute funds to states using a formula based on the state's share of people over 60. The Act focused on organizing and delivering community-based services by coordinating with state level agencies. Programs funded by the act now reflect a broad community-based long-term care structure which includes senior centers, volunteer programs and recreational activities.

Operating Expenses (OE)

The expenses associated with the operation of the transit agency, and classified by function or activity, and the goods and services purchased. The basic functions and object classes are defined in Section 5.2 and 6.2 of the Uniform System of Accounts (USOA). These are consumable items with a useful life of less than one year or an acquisition cost which equals the lesser of the capitalization level established by the government unit for financial statement purposes or $5,000.

Operators

The personnel (other than security agents) scheduled to be aboard vehicles in revenue operations, including vehicle operators, conductors, and ticket collectors. Operators may also include: Attendants who are transit agency employees that are aboard vehicles to assist riders in boarding and alighting, securing wheelchairs, etc., typically the elderly and persons with disabilities.

Paratransit

Types of passenger transportation which are more flexible than conventional fixed-route transit but more structured than the use of private automobiles. Paratransit includes demand response (DR) transportation services, shared-ride taxis, car pooling and vanpooling (VP), and jitney (JT) services. Most often refers to wheelchair-accessible, demand response (DR) service.

Passenger / Customer

A person who is: Onboard, boarding or alighting from a transit vehicle for the purpose of travel, without participating in its operation.

Passenger Fare Assistance

he subsidy given to the transit agency, usually by state and local governments, on behalf of specific classes of passengers, such as students, the elderly, and persons with disabilities. The subsidy may also come from the private sector, such as employers giving assistance to offer employees programs to use public transit services at reduced rates or free. The fare assistance helps to offset the reduced or free services provided to these passengers. It is usually based on

the amount of service provided; i.e., the subsidy is calculated based on the number of rides taken, but may be a lump sum payment.

Passenger Fares

The revenue earned from carrying passengers in regularly scheduled and demand response (DR) services. Passenger fares include base fare, zone or distance premiums, express service premiums, extra cost transfers, quantity purchase discounts applicable to the passenger's ride and special transit fares.

Personal Vehicles in Service

Vehicles that are used by the transit provider to transport passengers in revenue service but are owned by private individuals, typically an employee of the agency or a volunteer driver.

Private For-Profit Provider

A non-public entity that provides public transportation services. For-profit entities exist primarily to generate a profit, (i.e., a surplus of revenues over expenditures).

Private Non-profit Provider

A non-public entity with a tax-free status that provides public transportation services. Nonprofit entities exist to provide a particular service (e.g., public transportation) to the community. Nonprofit refers to a type of business — one that is organized under rules that forbid the distribution of profits to owners. Profit refers to a surplus of revenues over expenditures.

Public Agency or Transit System

A public entity that provides public transportation services. It may be a state or local government, or any department, special purpose district (e.g. transit or transportation district), authority or other instrumentality of one or more state or local governments (e.g., joint powers agency).

Public Transportation

As defined in the Federal Transit Act, "transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or intercity bus transportation or intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity)."

Notes: (1) Passenger rail transportation refers to Amtrak. (2) This definition does not affect the eligibility of intercity bus service under the §5311 Other Than Urbanized Area (Rural) Formula Program. (3) The intercity bus and intercity rail (Amtrak) portion of Intermodal terminals is however an eligible capital cost.

Purchased Transportation (PT)

Transportation service provided to a public transit agency or governmental unit from a public or private transportation provider based on a written contract. The provider is obligated in advance to operate public transportation services for a public transit agency or governmental unit for a

specific monetary consideration, using its own employees to operate revenue vehicles. Purchased transportation (PT) does not include franchising, licensing operations, management services, cooperative agreements, or private conventional bus service.

Regional Transportation Planning Agency

Public transportation agency responsible for long-range transportation system planning, including determination of regional priorities and an annual regional program for the use of federal, state and local funds to be allocated as a part of the regional transportation improvement program.

Reportable Incident

Existence of one or more of the following:

- A fatality due to an incident - does include suicides, but does not include deaths by natural causes, or deaths not associated with an incident, and / or
- Injuries requiring immediate medical attention away from the scene for one or more persons, and / or
- Property damage equal to or exceeding $25,000
- An evacuation due to life safety reasons
- A mainline derailment
- Acts of God
- Hazardous material spill
- Security incidents:
    - Terrorism related events:
        - Bomb threat
        - Bombing
        - Chemical / biological / radiological / nuclear release
    - Other system security events:
        - Arson
        - Sabotage
        - Hijacking
        - Cyber
    - Other personal events:
        - Aggravated assault
        - Rape
        - Suicide
        - Attempted suicide
        - Vandalism
        - Robbery
        - Burglary
        - Motor vehicle theft
        - Larceny / theft
        - Homicide

Revenue Service (Miles, Hours, and Trips)

The time when a vehicle is available to the general public and there is an expectation of carrying passengers. These passengers either directly pay fares, are subsidized by public policy, or provide payment through some contractual arrangement. Vehicles operated in fare free service

are considered in revenue service. Revenue service includes layover / recovery time. Revenue service excludes deadhead, vehicle maintenance testing, school bus service, and charter service.

Route Deviation

A type of transit service that operates as conventional fixed route bus (MB) service along a fixed alignment or path with scheduled time points at each terminal point and key intermediate locations. Route deviation service is different than conventional fixed route bus (MB) service in that the bus (MB) may deviate from the route alignment to serve destinations within a prescribed distance (e.g., ¾ mile) of the route. Following an off route deviation, the bus must return to the point on the route it left. Passengers may use the service in two ways:

1. If they want to be taken off route as part of a service deviation, they must tell the bus operator when boarding, or
2. If they want to be picked up at an off route location, they must call the transit system and request a pickup, and the dispatcher notifies the bus operator.

Scheduled Service

The total service scheduled to be provided for picking up and discharging passengers. Scheduled service is computed from internal transit agency planning documents (e.g., run paddles, trip tickets and public timetables). Scheduled service excludes service interruptions, and special additional services.

School Bus Service

The exclusive use of buses to carry children and school personnel to and from their schools or school-related activities. It includes county school buses, private school buses, and buses chartered from private companies for the express purposes of carrying students to or from school and / or school-related activities.

School Buses (SB)

Vehicle Type: Passenger vehicles which are designed or used to carry more than ten passengers in addition to the driver, and used primarily for the purpose of transporting pre-primary, primary or secondary school students either to such schools from home or from such schools to home.

Seating Capacity

The number of seats that are actually installed in the vehicle.

Service Area

A measure of access to transit service in terms of population served and area coverage (square miles). The reporting transit agency determines the service area boundaries and population for most transit services using the definitions contained in the Americans with Disabilities Act of 1990 (ADA). Transit agency reporters are required to submit service area information on the Identification form (B-10).

Social Services Transportation Improvement Act (SSTIA)

Also known as AB 120, this act passed in 1979 with the intent of improving transportation service required by social service recipients by promoting the consolidation of social service transportation services. (Cal. Govt. Code, § 15950 et seq.)

Special Transit Fares

The revenues earned for rides given in regular transit revenue service, but paid for by some organization rather than by the rider, and for rides given along special routes for which revenue may be guaranteed by a beneficiary of the service. Special transit fares include providing rides for letter carriers with payments being made directly from the US Postal Service, providing rides for police with payments being made directly from the police authority, industrial firms, shopping centers, public and private universities, etc., to guarantee a minimum revenue on a line operated especially for the benefit of the payer, contractual arrangements with state or local governments, and contractual arrangements from non-government entities for special transit fares and from providing special service rides for sporting events, sightseeing, etc., where fares are not guaranteed on a contractual basis.

State Government Funds

Financial assistance obtained from a state government(s) to assist with paying the costs of providing transit services.

Subsidy

Government financial assistance.

Taxicab Operator

A private for profit company where passenger vehicles are for hire by the riding public.

Transit

Synonymous term with public transportation.

Transportation Development Act

The Transportation Development Act (TDA) consists of nine articles in the California Public Utilities Code. (Cal. Public Utilities Code, § 99220 et seq.) This act declares that because of the size of the state, the public transportation system needs to be continually maintained and developed to allow for the efficient and orderly movement of people and goods. To that end, the TDA specifies in great detail how public transportation is to be funded by state resources.

The law also declares that public transportation is an essential component to a balanced transportation system that needs to be continually maintained and developed; because public transportation is so important it should be designed to encourage use by the elderly, the handicapped, the youth, and those with limited means to freely use the system. It also provides funding to CTSAs created under the Social Service Transportation Improvement Act.

Transportation Disadvantaged

California law does not define the term "transportation disadvantaged." However the Social Services Transportation Improvement Act refers to "transportation service required by social service recipients." (Cal. Govt. Code, § 15951.)

The Transportation Development Act reads "public transportation is an essential component to a balanced transportation system that needs to be continually maintained and developed; because public transportation is so important *it should be designed to encourage use by the elderly, the handicapped, the youth,* and those with limited means to freely use the system." (Cal. Public Utilities Code § 99220)

In a statute explaining the intent of Caltrans is "to provide adequate, safe, and efficient transportation facilities and services for the movement of people and goods at reasonable cost. *The provision of adequate transportation services for persons not now adequately served by any transportation mode, particularly the disadvantaged, the elderly, the handicapped, and the young, should be an integral element of the planning process*." (Cal. Govt. Code § 1400)

Florida law defines transportation disadvantaged to mean "those persons who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk." (Florida Statutes § 411.202)

A similar definition has been used by the University of Minnesota, Center for Transportation Studies: "Broadly, transportation disadvantaged populations include elderly, poor, children, persons who do not speak English, the physically disabled, and the developmentally disabled."

United We Ride

United We Ride is an interagency federal national initiative that supports states and their localities in developing coordinated human service delivery systems. In addition to State coordination grants, United We Ride provides State and local agencies a transportation-coordination and planning self-assessment tool, help along the way, technical assistance, and other resources to help their communities succeed. (FTA web page.)

Unlinked Passenger Trips (UPT)

The number of passengers who board public transportation vehicles. Passengers are counted each time they board vehicles no matter how many vehicles they use to travel from their origin to their destination.

Vanpool (VP)

A transit mode comprised of vans, small buses and other vehicles operating as a ride sharing arrangement, providing transportation to a group of individuals traveling directly between their homes and a regular destination within the same geographical area. The vehicles shall have a minimum seating capacity of seven persons, including the driver. For inclusion in the NTD, it is considered mass transit service if it is operated by a public entity, or is one in which a public entity owns, purchases, or leases the vehicle(s). Vanpool(s) (VP) must also be in compliance

with mass transit rules including Americans with Disabilities Act (ADA) provisions, and be open to the public and that availability must be made known. Other forms of public participation to encourage ridesharing arrangements, such as the provision of parking spaces, use of high occupancy vehicle (HOV) lanes, and coordination or clearing house service, do not qualify as public vanpools.

Vanpool Service

Transit service operating as a ride sharing arrangement, providing transportation to a group of individuals traveling directly between their homes and a regular destination within the same geographical area. The vehicles shall have a minimum seating capacity of seven persons, including the driver. Vanpool(s) must also be open to the public and that availability must be made known. Does not include ridesharing coordination.

Glossary Sources: Unless otherwise noted, the majority of definitions were taken directly from the National Transit Database Glossary: http://www.ntdprogram.gov/ntdprogram/Glossary.htm. Other definitions were added by NCSL at the request of the MAP PAC and those sources are noted in the definition.

Appendix D

Notes

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[2] See the United We Ride Program at http://www.unitedweride.gov/ (last visited September 25, 2009).
[3] 49 USCA § 5310.
[4] Alexandra Enders and Tom Seekins, *Technical Report, A Review of FTA Section 5310 Program's State Management Plan: A Legacy Program in Transition* (Missoula: The University of Montana Rural Institute, 2009), x.
[5] This overview adapted from FTA website, http://www.fta.dot.gov/funding/grants/grants_financing_3556.html.
[6] 49 USCA §5316.
[7] *Overview - Job Access and Reverse Commute Program (5316)*, http://www.fta.dot.gov/funding/grants/grants_financing_3624.html (last visited July 10, 2009).
[8] Ibid.
[9] Ibid.
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[11] The FTA recently issued a policy statement expanding the types of projects it considers 'beyond ADA.' For more information please see NCSL paper on ADA prepared for this project.
[12] *Overview - The New Freedom Program (5317)*, http://www.fta.dot.gov/funding/grants/grants_financing_7184.html (last visited July 10, 2009). See also [appendix ?].
[13] *Section 5317 New Freedom Program*, (Phoenix: Arizona Department of Transportation, 2008), http://mpd.azdot.gov/transit/Section5317.asp.
[14] Language provided from the proposed rule.
[15] APTA summary of the proposed bill. Cite the presentation.
[16] 42 USCA §12101 et seq. (West 2009).
[17] 42 USCA §12184 (West 2009).
[18] Overview of Reporting and Other ADA Requirements for Over-The-Road Bus Companies, http://www.fmcsa.dot.gov/rules-regulations/bus/company/ada-guidelines.htm.
[19] 42 USCA §12101 et seq. (West 2009).
[20] Ibid.
[21] 42 USCA § 3001 et seq.
[22] Funding has increased slightly each year, but has failed to keep pace with inflation and the growth of the aging population.
[23] Title V, community service employment program, is administered by the Department of Labor.
[24] See the *Summary of the Older Americans Act*, NCSL paper for this project for further discussion of how the OAA funds human service transportation.
[25] *See* 42 USCA §3030d(a)(2) (West 2009).
[26] 42 USCA §3030(d)(a)(14) (West 2009).
[27] *See* 42 USCA §3032e (West 2009).
[28] 42 USCA §3032e(b)(2) (West 2009).
[29] Cal. Welf. & Inst. Code §9400 (West 2009).
[30] California Assembly Bill 324 (2009) http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0301-0350/ab_324_bill_20090824_amended_sen_v96.html.
[31] Elder Economic Security Standard Index California Counties 2007 (Los Angeles, UCLA Center for Health Policy Research, 2008) http://www.healthpolicy.ucla.edu/elder_index08feb.html.
[32] 42 USCA §1396 et seq. (West 2009).
[33] See for example Martha King, *Medicaid A Snapshot for State Legislatures*, (Denver, NCSL, 2004).

[34] 42 CFR §431.53 (West 2009).
[35] Please see NCSL project briefing paper for a summarization of the comments/responses to the rule.
[36] http://www.cms.hhs.gov/MedicaidStWaivProgDemoPGI/04_Section1915(b)Authority.asp
[37] The final rule was incorporated in 42 CFR §440.170(a)(4).
[38] Ibid.
[39] See [appendix *x*] for a legislative history of the SSTIA.
[40] See Cal. Pub. Utilities Code §15951 (West 2009).
[41] http://www.calact.org/doc.aspx?17
[42] California Public Utilities Code, Section 99200 et seq. Also, see *Summary of the California Transportation Development Act,* and *Legislative Histories of the SSTIA and the TDA*, by NCSL, prepared for this project.
[43] Ibid.
[44] Cal. Public Utilities Code § 99238 (West 2009).
[45] Cal. Public Utilities Code §99401, §99401.6, §99402 (West 2009)
[46] Cal. Govt. Code 29536 (West 2009)
[47] Cal. Public Utilities Code §99400 (West 2009)
[48] According to DMT, the unmet needs process applies to about 2/3rds of all counties in California; but, most metro areas do not have to partake in the process. DMT keeps a list of those subject to the requirement.
[49] California Senate Bill 716 (2009) http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0701-0750/sb_716_bill_20090911_enrolled.html.
[50] Cal. Public Utilities Code §99235 (West 2009).
[51] Cal. Public Utilities Code §99401.5(d) (West 2009). DMT cannot offer any guidance on how to define terms in the unmet needs process.
[52] *Transportation Development Act - Statutes Codes and Regulations* (Sacramento: California Department of Transportation, Division of Mass Transportation, March 2009), 2.
[53] Cal. Public Utilities Code §99408 (West 2009 and Cal. Public Utilities Code § 99242 (West 2009)
[54] Cal. Public Utilities Code §99401.5(d) (West 2009)
[55] Cal. Public Utilities Code §99401.6 (West 2009)
[56] Cal. Public Utilities Code §99401.5(c) (West 2009)
[57] Cal. Public Utilities Code §99405(a) (West 2009)
[58] Cal. Public Utilities Code §99405(c) (West 2009)
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[60] Gordon Arruda, Caltrans, *Presentation to the MAP PAC*, May 13, 2009.
[61] Ibid.
[62] Cal. Public Utilities Code § 99221 (West 2009).
[63] NEED CITE
[64] California Department of Transportation, Division of Mass Transportation, *"Unmet Transit Needs" and "Reasonable to Meet" Definitions*, (Sacramento: California Department of Transportation, Division of Mass Transportation, 2009).
[65] San Benito Council of Governments, Draft *2009 Unmet Transit Needs Annual Report*, (Hollister, Council of San Benito County Governments, 2009), 3.
[66] Division of Mass Transportation, *Definitions*, 3.
[67] Ventura County Transportation Commission, *FY 2009/2010 Unmet Transit Needs Findings* (Ventura: Ventura County Transportation Commission; 2009), 1.
[68] Ibid., 4.
[69] When turning down a request, Madera County always gives the requester another option or points out another service that could meet the requester's need.
[70] Ibid., 3.
[71] See for example Courtney Smith, *Unmet Needs Transit Needs Findings* (Independence: Inyo County Local Transportation Commission, 2008) 5.
[72] Cal. Pub. Utilities Code §99242 (West 2009), and Cal. Pub. Utilities Code §99408 (West 2009).
[73] Cal. Pub. Utilities Code §99242 (West 2009).
[74] 42 CFR §431.53 (West 2009).
[75] 22 CCR §51151 (West 2009).

[76] Merriam-Webster Dictionary Online, http://www.merriam-webster.com/dictionary/contraindicated.
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[80] Judith Norman, Health Access in San Bernardino and Riverside Counties: Non-Emergency Medical Transportation Needs and Resources, (Southern California Association of Governments, San Bernardino, 2004) 66.
[81] Ibid.
[82] See example *Smith v. Vowel* [cite], *Blue v. Craig* [cite], *Font v. Sumba* [cite], and *Daniels v. Tennessee Dept. of Health and Environment* [cite].
[83] 42 U.S.C.A. § 1983 (West 2009).
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[89] Ibid.
[90] Ibid.
[91] Ibid.
[92] The final rule was incorporated in 42 CFR § 440.170(a)(4).
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[96] Ibid.
[97] *Need cite.*
[98] Rosenbaum, et al., *Medicaid's Medical Transportation Assurance*, 16.
[99] *See also* 21 CCR §6680 (West 2009).
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[105] See [appendix *x*] for a summarization of what the Action Plan was supposed to contain.
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[113] CalAct, CTSA e-book, Chapter 4 Funding.

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