

Pre-Decisional Discussion Draft FAST Act Fact Sheet

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Date: January 15, 2016

Subject: FAST Act – Title III - Public Transportation and Title XI - Rail

Statement:

On December 4, 2015 President Obama signed the *Fixing America's Surface Transportation Act*, also known as the "*FAST Act*". Transit programs generally continue to operate as they did under MAP-21, but the Act promotes a full reinstatement of the Buses and Bus Facilities Competitive Grant program and a new "rural set-aside", both under the 5339 program. The FAST Act also brings more funding to transit in virtually every program. However, while the FTA's overall program continues to grow, DRMT's Federal program is experiencing staffing challenges, which have been cited as "inadequate" by FTA program reviewers for the last three consecutive triennial State Management Reviews.

TITLE III – PUBLIC TRANSPORTATION

California's Estimated Annual Allocation - All FTA Programs:

<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
\$1,253,984,980	\$1,317,468,210	\$1,343,523,066	\$1,371,460,841	\$1,399,901,100	\$1,428,800,364

California's Estimated Annual Allocations – By Program:

Section 5307:

<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
\$772,531,268	\$787,222,716	\$803,489,963	\$821,163,064	\$839,248,298	\$857,546,557

Section 5310:

<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
\$28,367,467	\$28,878,081	\$29,455,643	\$30,074,211	\$30,711,784	\$31,362,874

Section 5311:

<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
\$27,488,728	\$27,912,279	\$28,537,073	\$29,202,242	429,887,339	\$30,587,306

Section 5339:

<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
\$66,768,810	\$61,804,057	\$63,318,572	\$64,938,982	\$66,606,353	\$68,307,713

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Nationally the total authorized funding for FTA programs is \$61.1 billion over the life of the bill. Between 2015 and 2020 FTA's program increases from \$10.7 billion to \$12.6 billion.

Recommendation:

- 1) Promote new Governor's designations;
- 2) Promote State enacting legislation (if any) and;
- 3) Promote resource implementation plan identified below.

GOVERNOR'S DESIGNATIONS

The vast majority of California's federal transit funding (\$1.3 billion + annually) has, and will continue to flow directly to large urban areas. However, DRMT is currently the Governor's Designated Recipient (DR) for rural, small urban and some large urban areas for the 5310 program, for the rural 5311 program, and for all of the rural and small urban 5339 program. DRMT does anticipate minor changes to the large urban area designations that are currently filed by the Governor with FTA for the 5310 program, and for the Tahoe area, which now has a special "large urban" designation under the FAST Act. DRMT will initiate these changes, and re-designate for those that are not changing. Consultation with the current 5310 DR's and the Tahoe Region has already begun. This activity will require the Division to prepare a Governor's Office Issue Memorandum (GOIM) and a set of letters for the Governor's signature.

DRMT also continues to be the Governor's DR for small urban area 5307 funds under MAP 21. We do not anticipate any changes to current designations. However, the FTA has long-established program/project administrative protocol in place. These protocol are two very simple administrative functions that DRMT must employ: 1) DRMT concurrence with MPO programming concurrence for small urban area 5307 funds; and 2) "PINNING" small urban 5307 grants in FTA's grant management database. These activities are not currently resourced, but do take up some DRMT staff time. Contract and project management continues – as it has under prior federal reauthorizations, between the direct recipient (transit agencies) and the FTA. DRMT therefore does not see any impact from the FAST Act on current DRMT 5307 responsibility.

The Fast Act also directs state governors to continue designating large urban areas as the DR under the section 5307, 5337, and 5339 programs. DRMT must therefore respect boundaries set forth by the FAST Act, the Governor, and FTA. DRMT will yield FAST Act implementation for these programs to large urban areas. These DR's will be working directly with the FTA and organizations such as the California Transit Association to promote legislation, administrative activities and tools necessary for successful FAST Act implementation in large urban areas. Caltrans DRMT will engage these discussions through the Department's FAST Act Implementation Working Group, offer input, and determine cross-functional activities that may exist between transit stakeholders. For this reason the rest this document promotes focus for those programs for which DRMT is directly responsible as Designated Recipient, while offering commentary for other Caltrans programs that may affect DRMT programs.

Planning Provisions

Sec. 1201. 5303 Metropolitan Transportation Planning- Intercity, intermodal and vanpool transportation has been incorporated into the planning context to expand the opportunity for transit agency, intercity bus operators, ports and commuter services agencies so that they may be represented and participate in the planning process. **DRMT encourages the Division of Transportation Planning to**

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market and utilize the language from this Section to help foster multi-modal collaboration at the state, regional, metropolitan and rural planning scales.

Sec. 1202. 5304 Statewide and Non-metropolitan Transportation Planning - Transit agency, intercity bus operators, ports and commuter services agencies are called out to be represented and participate in statewide and rural planning process. **DRMT encourages the Division of Transportation Planning to market and utilize the language from this Section to help foster multi-modal collaboration at the state, regional, and rural planning scales.**

FEDERAL TRANSIT PROGRAM PROVISIONS

Sec. 3004. 5307 - The Urbanized Area Formula program grows at a modest rate, starting at \$772,531,268 in FY 2015 and rising to \$857,546,557 in FY 2020. As described above, DRMT does not foresee any impact to the 5307 program. **No new actions will be required for DRMT.**

Sec. 3006. 5310 – There is modest growth for the 5310 Enhanced Mobility of Seniors and Individuals with Disabilities program starting at \$28,367,467 in FY 2015 and rising to \$31,362,874 in FY 2020 (total California apportionment). This growth should encourage the 5310 Program at Caltrans to continue monitoring subrecipient use of toll credits in-lieu of local match, and potentially continue petitioning the Department of Finance (DOF) and the legislature to increase funds available to the “Mass Transportation Revolving Account (MTRA). This Account is used to advance procurement of 5310 vehicles. The Account was originally created in the 1970’s with a one-time infusion of Public Transportation Account funds (\$1 million). Since that time the 5310 program has grown significantly. The Program is funding more ADA accessible buses, and these buses are more expensive. Calculating for inflation, the MTRA simply does not have the purchasing power that it once had. DRMT has tried to increase funding to this Account for the past two years, but the DOF denied the request and stated that the issue needed to be fixed/accomplished legislatively. Legislation was proposed, but it died. Should toll credits - which there are currently ample, decline, the 5310 program may not have enough capital resources to advance the purchase of 5310 vehicles – a core function of the Division. **An increase to the MTRA is a smart, strategic step that should be given consideration.**

The 5310 program should also be aware:

1. That States and local government entities operating public transit services are clarified in the FAST Act as eligible direct recipients of Section 5310 assistance.
2. That the dissemination of “best practices” becomes a statutory activity for FTA under a new Section 5310(i). **DRMT’s 5310 program should be directed to devote staff time to 5310(i) in order to determine best practice 5310 scenarios for California.**
3. That the FAST Act created a *Pilot Program for Innovative Coordinated Access and Mobility*. A total of \$15.25 million is authorized nationally for projects that assist in financing innovative transportation for the disadvantaged, and improve the coordination of transportation services and non-emergency medical transportation services. Grants for these types of projects could be awarded to 5310 subrecipient agencies in California (unknown), upon which time DRMT could be assigned administrative responsibility. However, it is DRMT’s perception that these grants will be managed by FTA headquarters.
4. That the FAST Act requires the Interagency Transportation Coordinating Council on Access and Mobility established under Executive Order No. 13330 to publish a new federal strategic plan that:

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- Outlines the roles and responsibilities of each Federal agency with respect to local transportation coordination, including nonemergency medical transportation;
- Identifies a strategy to strengthen interagency collaboration;
- Addresses any outstanding recommendations made by the Council in the 2005 Report to the President relating to the implementation of Executive Order No. 13330, including a cost-sharing policy endorsed by the Council; and recommendations to increase participation by recipients of Federal grants in locally developed, coordinated planning processes;
- To the extent feasible, addresses recommendations by the Controller General concerning local coordination of transportation services;
- Examines and proposes changes to Federal regulations that will eliminate Federal barriers to local transportation coordination, including non-emergency medical transportation; and
- Recommends to Congress changes to Federal laws, including chapter 7 of title 42, United States Code that will eliminate Federal barriers to local transportation coordination, including nonemergency medical transportation.

While there may not be any near-term impact from the *Pilot Program* or the *Strategic Plan*, the 5310 program should be encouraged to follow both efforts to determine appropriate DRMT and 5310 subrecipient engagement. **There may be future action for the DRMT 5310 program and/or its subrecipients that are associated with these national activities.**

Sec. 3007. 5311 - The Rural Area Formula program is funded at \$27,488,728 in FY 2015, growing to \$30,587,306 in 2020. The Rural Transit Assistance Program (5311(b)) is also continued, funded at \$366,011 in 2015 and growing to \$405,454 in 2020. The FAST Act does not promote any significant administrative change for these Programs, so **no new actions are anticipated**. However, the 5311 program should note that additional sources of eligible “non-federal” matching funds are established, including cash from non-governmental sources and advertising sales (both of which previously were not allowed as matching funds).

Sec. 3016 and 3017. 5339 – The FAST Act provides a significant increase in funding for the Bus and Bus Facilities Program, which is largely due to the reinstatement of a new Bus and Bus Facility Competitive Grant Program. Nationally, the Bus and Bus Facilities Formula Program increases from \$428 million in FY 2015 to \$465 million in FY 2020. The FAST Act also provides \$268 million in FY 2016 for Bus and Bus Facility Competitive Grants, which grows to \$344 million by FY 2020. This is a 62.5 percent increase over the current, overall 5339 funding in the first year, and an 89 percent increase over the life of the Bill.

The Bus and Bus Facilities formula apportionment for California is approximately \$66,768,810 in FY 2015, and grows to \$68,307,713 by FY 2020. DRMT currently administers approximately \$7,400,000 (formula) for the small urban area recipients, and the State’s \$1,250,000 discretionary component (MAP 21 funds). When FTA publishes FAST Act apportionment tables for this program, DRMT could see the small urban Program formula component grow 62.5% to \$12,025,000. The discretionary component grows to \$1,750,000, and there is a new competitive program for which an apportionment is not yet known, and 10 percent will be set-aside for rural projects.

Other 5339 points:

- The FAST Act also allows 5339 recipients in a specific state to pool their formula funds to accommodate larger scale procurements. This should promote procurement efficiencies for the Division’s Procurement Branch, for which they have been preparing.

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- The FAST Act 10 percent rural set-aside from the competitive bus program includes a cap. Not more than 10 percent can be awarded to a single grantee.
- The FAST Act allows states to submit statewide applications for bus needs.

5339 Problem Statement: After MAP 21 became law FTA Region IX and the American Association of State Highway Transportation Official's (AASHTO's) Standing Committee On Public Transportation (SCOPT) openly acknowledged that Congress did not write any language into MAP 21 to identify state-level administrative resources. However, state DOT's were identified in MAP 21 as the designated recipient for small urban and discretionary 5339 program funds. This has not changed, and DRMT is not currently resourced in any way to deliver the 5339 program. Given the 5339 programs projected, steady increase in overall funding over the next 5 years (89% nationally), **DRMT Management should consider preparing a finance letter and BCP to obtain administrative resources. This Program needs staff to administer the program.**

Sec. 3019 - Innovative procurement – Sec 3019 applies to any recipient or subrecipient of assistance under Chapter 53 of Title 49, United States Code. The FAST act authorized provisional changes that will reduce the barriers for transit agencies to develop and enter into leasing arrangements for public transportation equipment or facilities by removing existing regulatory requirements that have impeded the authority of transit agencies seeking to reduce long-term capital costs. DRMT has been aware of the planning efforts to improve these processes for procurement, and has been preparing for associated change. The Division therefore does not see any impact to its current Procurement Program and foresees **no new action.**

Buy America Provisions - The FAST Act increases the made in America – “Buy America” content requirement for transit rolling stock. It grows from the current level of 60 percent to 65 percent in 2018 and 70 percent by 2020.

Transit product procured through State transit procurement program is currently exceeding the FAST Act's sunset year standard for procurement of U.S. made product for Buy America and foresees this percentage will increase over the life of the Bill. The sunset standard is 70% by year 2020. DRMT is procuring American made products at 72%. **No new action.**

Sec. 3018. 5338 - Obligation ceiling. This Section of the FAST Act sets obligation limits for funding made available from the Mass Transit Account (MTA) of the Highway Trust Fund (HTF). The total of all obligations from amounts made available from the MTA of the HTF are:

- \$9,347,604,639 in fiscal year 2016;
- \$9,733,706,043 in fiscal year 2017;
- \$9,733,353,407 in fiscal year 2018;
- \$9,939,380,030 in fiscal year 2019;
- \$10,150,348,462 in fiscal year 2020.

DRMT does not anticipate any issues with the obligation ceiling. **No new action.**

Sec. 3028 – Grants for Positive Train Control (PTC). The FAST Act authorizes \$199 million from the Mass Transit Account of the HTF for installation of PTC; awarded competitively; 80 federal share: only recipients of funds under “transit” are eligible. DRMT does not anticipate being a direct grantee for urban area rail PTC. **No new action.** More information on PTC is identified under Title XI – Rail, below.

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TITLE XI - RAIL PROVISIONS

Comments and analysis on aspects of the Rail Program were made in the December 11, 2015 letter to the Caltrans Executive Board from Legislative Affairs. A number of these are summarized here and additional sections that could affect the Rail Program are included.

Sec. 11101 – Authorization of Grants to Amtrak. This section of the FAST Act authorizes \$8 billion in funding for Amtrak grants for the FY 2016-2020: \$2.6 billion is authorized for Amtrak projects associated with the Northeast Corridor and \$5.5 billion for projects on the Amtrak National Network.

Sec. 11102 – Consolidated rail infrastructure and safety improvements. Authorizes general fund appropriations under the Act while **Sec. 11301** creates a new competitive grant program for improvement of passenger and freight rail transportation. Large variety of potential applicants including states, multistate compacts, subdivisions of states, Amtrak, railroads, TRB, UTCs or rail labor unions. Preference to projects with 50% or less federal funds, but can be up to 80% federal. 25% to rural areas. Total of \$1.1 billion for improvements to freight and passenger rail including safety, Positive Train Control (PTC), efficiency, reliability and workforce development and training. Wide variety of possible projects. Projects related to congestion relief, multimodal connections, grade crossings and regional rail are included. Projects to be identified by secretary.

Sec. 11103 – Federal-State partnership for state of good repair authorizes general fund appropriations for federal-state State of Good Repair grant program under **Sec. 11302** of this Act. Specifically this section creates new federal competitive grant program for capital projects to reduce backlog of needed repair for intercity rail projects to improve performance. Preference to projects where Amtrak not sole applicant, federal share not over 50%, and which take into account variety of cost-benefit analyses. Maximum federal share is 80%. Together with Sec. 11103 authorizes \$997 million for projects.

Sec. 11104 – Restoration and enhancement grants. Authorizes general fund appropriations under **Sec. 11303** of this Act. It creates a new competitive grant program for the purpose of initiating, restoring or enhancing intercity rail passenger transportation. Applicants can be states, interstate compacts, state publicly chartered agencies, political subdivisions of states, or Amtrak or railroad in partnership with at least one of above. Priority to restore Amtrak service. \$20 million per year FY 2016-FY2020.

Additional sections on railroad safety are provided in sections relating to railroad-highway grade crossings, PTC and corridor speeds. **Sec. 1108 - Rail-highway grade crossings** increases funds for rail-highway grade crossings a modest amount. California will get \$82.1 million over five years, with increase from current \$15.5 million annually to \$16.2 million. **Sec. 11401. Highway-rail grade crossing safety.** After FRA development of model state-specific action plans, these plans will be distributed to each state for implementation of the state highway-rail grade crossing action plan. The action plan to include identification and evaluation of rail-highway grade crossing safety risk and identifying strategies for improving safety. **Sec. 3028 – Authorization of grants for positive train control** makes \$199 million available from Mass Transportation Account in FY 2017 to assist in financing the installation of PTC. Other FTA funds will have to be reduced to allow \$199 million obligated or obligation limits raised. **Sec. 11406 – Speed limit action plans** requires that carriers providing intercity or commuter service survey

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their systems and identify locations requiring 20mph speed reductions for curves, bridges or tunnels. This information should already be catalogued by California rail operators.

Several sections relate to Amtrak service which could affect California. **Sec. 11204 – State-supported route committee.** This section requires U.S.D.O.T. to establish a State-Supported Route Committee to promote mutual cooperation and planning pertaining to Amtrak's operation of state-supported routes. Additional sections which relate to Amtrak corridor planning are **Sec. 11206 – Route and service planning decisions** – which requires Amtrak, within 180 days of enactment of the FAST Act to hire an independent entity to develop objective methodologies for route planning, and **Sec. 11307 – Competition** which provides that within 18 months of enactment, U.S.D.O.T. shall implement a pilot program for competitive selection for the privatization of not more than three Amtrak long distance routes.

Environmental considerations are found in **Sec. 11503 – Efficient environmental reviews.** Requires U.S.D.O.T to apply environmental streamlining measures of 23 USC to rail projects. **Sec. 1312** allows U.S.D.O.T. grant recipients to provide funds to agencies that would expedite environmental review and permitting. **Sec. 1309** – California can apply to conduct and make approvals for projects under state environmental laws rather than NEPA.

Other sections which affect Amtrak and state-supported corridors are **Sec. 11212 – Station development**, which requires Amtrak, within 180 days of enactment of the FAST Act to report to Congress on options to enhance the economic development and accessibility of its stations. Since Amtrak operates at 61 stations on state-supported corridors this would affect state-supported service on all three corridors. With **Sec. 11213 - Amtrak boarding procedures** the stations of Los Angeles, Sacramento and San Diego would be surveyed. This section requires a report to Congress on boarding procedures at 15 busiest stations, including bicycles. It also requires a boarding comparison to commuter/metro procedures.

Other sections which could impact California include **Sec. 11309 – Large Capital Project Requirements.** Requires that with a request for grants of more than \$1 billion, the applicant must demonstrate specific non-federal share requirements and financial plan submission. Another is **Sec. 11315 – Miscellaneous Provisions.** Requires that state rail plan be resubmitted to the Secretary every four years for acceptance instead every five years for reapproval.

A section which does not focus primarily on the passenger rail program but that could have an effect on the passenger program is **Sec. 1116 – National Highway Freight Program.** The new National Highway Freight Program will focus on movement of freight on the National Highway Freight Network. Funding will range from \$1.15 billion in FY 2016 to \$1.5 billion in FY 2020. California to receive an annual average of \$117 million. 10% can be used for non-highway projects (freight rail and ports). Since state-supported service for all three state-supported corridors is found on tracks of both the Union Pacific and BNSF Railway any projects funded by this section for the freight railroads could affect passenger service.