



November 19, 2021

The Honorable Pete Buttigieg
Secretary of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Impacts to transit funding and capital projects from the U.S. Department of Labor’s new determination regarding California pension law.

Dear Secretary Buttigieg:

On behalf of the undersigned transportation agencies, we write to convey our concern with the new determination issued by the U.S. Department of Labor (USDOL) on October 28, 2021 relative to California pension law.

USDOL asserts that California transit agencies that implement the State’s Public Employees’ Pension Reform Act of 2013 (PEPRA), violate federal collective bargaining rights under Section 13(c) of the Urban Mass Transportation Act of 1964. Subsequently, USDOL has withheld certification of Federal Transit Administration grants intended for California’s transit agencies. **We join Governor Gavin Newsom, Senator Dianne Feinstein, and Senator Alex Padilla in calling immediately to restore California’s access to federal transit grants.**

The COVID-19 pandemic and resulting recession has had devastating impacts on California. Transportation agencies have seen steep declines in ridership and revenues, putting immense strain on budgets and personnel to continue providing services and keep a pipeline of job-creating infrastructure projects moving forward. Fortunately, Congress took extraordinary action to provide direct funding to transit agencies through three emergency relief packages: (1) Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136), (2) Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA; P.L. 116-260), and (3) American Rescue Plan Act (ARPA; P.L. 117-2).

SCAG’s analysis demonstrates that USDOL’s new determination will abruptly cut off access to approximately \$1.469 billion in COVID-19 relief funds slated for transit agencies in our region. Specifically in Southern California, transit agencies anticipate submitting grant applications for

COVID-19 assistance over the next several months in the amounts of \$123,098 from the CARES Act, \$17 million from CRRSAA, and \$1.45 billion from ARPA. All require USDOL certification to be obligated. Delay in the certification and subsequent obligation of these grants undermines our economic recovery by hindering the ability of transit agencies to maintain essential transit service that is overwhelmingly used by low-income and/or people of color and puts at risk many ongoing capital investment projects severely impacting well-paying construction jobs.

Furthermore, USDOL's determination will impact other federal funding opportunities and new funding authorized by the Infrastructure Investment and Jobs Act (IIAJ; P.L. 117-58) that was championed by President Joe Biden and signed into law just this week. We are seriously concerned that the SCAG region's transit agencies may become uncompetitive as the new infrastructure law is implemented. Below you will find an abbreviated list of anticipated grant applications at risk of delays or loss of funding due to the new determination:

Los Angeles County Metropolitan Transportation Authority (LA Metro)

Metro relies on federal funds to support the operation of their rail and bus system and capital program. Metro is currently engaged in a major expansion of their rail system. This expansion supports thousands of jobs and is providing transit service to disadvantaged communities across Los Angeles County. They are also engaged in an ambitious effort to convert the bus fleet of over 2,200 buses to zero emissions technology. All of these efforts would be threatened by a cessation of federal funding. Additionally, Metro is in the process of submitting two key rail projects for consideration in the Capital Investment Grant Program. They recently submitted the East San Fernando Valley light rail line and will soon submit the West Santa Ana light rail line. Both of these projects will bring transit to disadvantaged communities that currently do not have access to the rail system and will create additional jobs in the region.

Orange County Transportation Authority (OCTA)

OCTA has approximately \$228 million in grant applications that will be submitted over the next year, which could be jeopardized if this issue is not resolved quickly. This includes funding to support significant transit capital improvements in Orange County including the OC Streetcar, a 4.2 mile modern streetcar system that will provide transit service for commuters in the heart of Orange County including through several disadvantaged communities, providing direct links to commuter and intercity rail service. In addition, funding for replacement of 40-ft, articulated and paratransit buses that have reached their useful life, and help to meet and maintain air quality standards, will be at risk. This is all additional to federal funding that helps support the operations of Orange County's fixed-route and paratransit services, which could be disrupted if federal funds are unable to flow.

- a. Federal Section 5307 in the estimated amount of \$60.1 million of funding for operating assistance (fixed-route and paratransit) and preventative maintenance.
- b. Federal Section 5337 in the estimated amount of \$2.7 million for preventative maintenance.
- c. Federal Section 5339 in the amount of \$6.2 million to purchase 15 paratransit rolling stock vehicles and to support paratransit operating assistance.

- d. Federal Section 5339 in the amount of \$6.2 million to support additional paratransit operating costs.
- e. Capital Investment Grant Amendment to OCTA's existing Federal Funding Grant Agreement CA-2019-018-00 in the amount of \$9.4 million to amend and reduce the local contribution for the OC Streetcar Project, and potentially affecting the remaining balance of \$66.6 million. The Project will build a 4.2-mile streetcar providing transit service for commuters traveling to employment centers in the heart of Orange County.
- f. Federal Section 5307 Congestion Management and Air Quality grant funds that will contribute to attainment or maintenance of the National Ambient Air Quality Standards for ozone, carbon monoxide, and particulate matter, in the estimated amount of \$77.1 million to support multiple State-of-Good-Repair and Accessibility Projects, including:
 - 1. Purchase of sixty-seven (67) 40-foot alternative fuel replacement vehicles that have reached their useful life.
 - 2. Purchase new engines for one hundred fifty-seven (157) 40-foot and sixteen (16) 60-foot buses to maintain safe and reliable transit service.
 - 3. Rideshare Vanpool Lease to support subsidy, marketing, database, ride guide and associated costs related to providing transportation alternatives to the public.
 - 4. Laguna Niguel Passing Siding Project to add approximately two miles of new railroad track adjacent to the existing track, including slope stabilization to sustain safe and reliable rail infrastructure.
 - 5. OC Streetcar Project construction.

Riverside County Transportation Commission (RCTC)

The total amount of critical funding provided to Riverside County for operations and capital projects in rural and urbanized areas for Fiscal Year 2021-2022, which could go unfunded due to the USDOL determination, is estimated at \$21.4 million. Federal funding accounts for approximately 21 percent of transit operators' budgets annual operating funding. Potential delays include preventative maintenance for fixed-route and ADA paratransit services, upgrades to transit stops and facilities, replacement of fixed-route and ADA paratransit vehicles, and additional Intelligent Transportation Systems (ITS) projects. RCTC is attempting to provide short-term relief to its operators in Fiscal Year 2021-2022 in the form of loans, however, if this persists into Fiscal Year 2022-2023, there will likely be service reductions and delayed capital projects that will impact Riverside County's efforts to service its residents, in which, many of those users are transit dependent. Annually, Riverside County transit operator budgets range from \$180 million to \$190 million a year. If PEPR continues into Fiscal Year 2022-2023, RCTC estimates that Riverside County transit operators will see an impact of approximately \$38 to \$40 million in federal funding for operating assistance and approximately \$10 to \$20 million in capital assistance. Many transit agencies are currently trying to recover from the COVID-19 pandemic and delayed funding will slow recovery. Like other transit operators nationwide, Riverside County operators are struggling to recover ridership, having supply chain constraints, and driver shortages. This leads to increased costs both in operations and higher capital costs to meet each operators' supply needs. Like other transit operators in California, this may significantly impact its ability to meet other statewide goals of fleet and facility transitions to zero emission.

Fiscal Year 2021-2022 Federal Funding Impacts

- a. City of Corona – \$1.1 million
- b. City of Riverside – \$300,000
- c. Riverside Transit Agency – \$16.4 million
- d. SunLine Transit Agency – \$ 3.6 million

San Bernardino County Transportation Authority (SBCTA)

The total amount of critical funding provided to San Bernardino County for operations and capital projects, which could go unfunded due to the USDOL determination, is estimated at approximately \$551 million.

- a. Federal Section 5307 in the amount of \$8.65 million of funding for Redlands Passenger Rail in Fiscal Year 2022.
- b. CMAQ Transfer in the amount of \$25 million of funding for Arrow Operating in Fiscal Years 2022 to 2026.
- c. Federal Section 5309 in the amount of \$86.75 million of funding for West Valley Connector (BRT) in Fiscal Years 2022 to 2025.
- d. ARPA COVID-19 relief assistance in the amount of \$26 million of funding for West Valley Connector (BRT) in Fiscal Years 2022 and 2023.
- e. CMAQ Transfer in the amount of \$7 million of funding for West Valley Connector (BRT) in Fiscal Years 2025 to 2031.
- f. CMAQ/STIP Transfer in the amount of \$7.5 million of funding for ZEMU Conversion in Fiscal Years 2027 to 2031.
- g. CMAQ Transfer in the amount of \$137.7 million of funding for Zero Emission Bus Initiative in Fiscal Years 2024 to 2031.
- h. Federal Section 5307 in the amount of \$94.3 million of funding for Omnitrans in Fiscal Years 2022 to 2026.
- i. Federal Section 5339 in the amount of \$10.2 million of funding for Omnitrans in Fiscal Years 2022 to 2026.
- j. CMAQ Transfer in the amount of \$18.2 million of funding for Omnitrans in Fiscal Years 2025 and 2026.
- k. Federal Section 5307 in the amount of \$43.2 million of funding for Victor Valley Transit Authority in Fiscal Years 2022 to 2026.
- l. Federal Section 5339 in the amount of \$5.5 million of funding for Victor Valley Transit Authority in Fiscal Years 2022 to 2026.
- m. CMAQ Transfer in the amount of \$15.1 million of funding for Victor Valley Transit Authority in Fiscal Years 2022 to 2026.
- n. Federal Section 5307 in the amount of \$30.8 million of funding for Metrolink in Fiscal Years 2022 to 2026.
- o. Federal Section 5337 in the amount of \$35 million of funding for Metrolink in Fiscal Years 2023 to 2026.

Southern California Regional Rail Authority (Metrolink)

The total amount of critical funding provided to Metrolink for operations, maintenance, and capital projects, which could go unfunded due to the USDOL determination, is estimated at \$55 million.

- a. Annual Rehabilitation/New Capital Budget. The FTA will fund approximately \$23 million of the adopted Fiscal Year 2022 capital budget. That \$23 million is spread across numerous projects, so a delay would prevent a significant number of projects from starting until the grant is ultimately approved. A cascading effect would be the inability to utilize other grant funding allocated to stalled projects (e.g., state funds), some of which have looming expiration dates. Those funds would be at risk of expiring.
- b. Annual Preventive Maintenance (PM). The FTA will provide approximately \$10 million of formula funding towards the preventive maintenance expenses in the annual operating budget, which is at risk from the DOL determination.
- c. CRRSAA. Metrolink estimates that approximately \$4 million in funding for operations under the CRRSAA Act is at risk due to the DOL determination.
- d. ARPA. Metrolink estimates that approximately \$18 million in funding under the ARP Act used for operations are at risk due to the DOL determination.


Ventura County Transportation Commission (VCTC)

The total amount of critical funding provided to Ventura County for operations and capital projects, which could go unfunded due to the USDOL determination, is estimated at approximately \$ 27.2 million.

- a. ARPA Funds of \$8.1 million for Gold Coast Transit Operating Assistance.
- b. CMAQ Transfer of \$4.66 million to replace 12 Gold Coast Transit buses that have reached the end of their service life.
- c. CMAQ Transfer of \$2.4 million to replace 12 Simi Valley Transit paratransit vehicles that have reached the end of their service life.
- d. Section 5339 of \$490,000 to provide Thousand Oaks Transit electric vehicle charging infrastructure and bus washer, and Camarillo Area Transit bus that has reached the end of its service life.
- e. Section 5307 of \$4.9 million for Gold Coast Transit operating assistance, preventive maintenance, paratransit operations, and debt service.
- f. Section 5307 of \$2 million for VCTC Intercity Bus operating assistance and preventive maintenance.
- g. Section 5307 of \$2.6 million for Valley Express, Thousand Oaks Transit, and Camarillo Area Transit operating assistance, preventive maintenance, vehicle leases, and planning
- h. Section 5307 of \$1.9 million for Simi Valley Transit operating assistance, preventive maintenance, and paratransit operations.

We respectfully oppose the new determination and ask the U.S. Department of Transportation to work with USDOL and take rapid action to ensure that California's transit agencies continue to receive federal transit funding. Thank you for your prompt attention to this matter. If you have questions, I am always available at (213) 236-1835 or via email at Ajise@scag.ca.gov.

Sincerely,



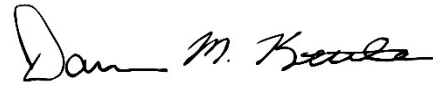
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Ray Wolfe
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San Bernardino County Transportation
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Stephanie Wiggins
Chief Executive Officer
Los Angeles County Metropolitan
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cc: The Honorable Martin J. Walsh, Secretary of Labor
The Honorable Nuria Fernandez, Administrator of the Federal Transit Administration
The Honorable Ray Tellis, Federal Transit Administration Region IX Administrator
The Honorable Dianne Feinstein, Senator of California
The Honorable Alex Padilla, Senator of California
The Honorable Gavin Newsom, Governor of California