



City of Ceres • City of Hughson • City of Modesto • City of Newman • City of Oakdale • City of Patterson
City of Riverbank • City of Turlock • City of Waterford • County of Stanislaus

**SPECIAL MEETING OF THE
EXECUTIVE COMMITTEE
STANCOG BOARD ROOM
1111 I STREET, SUITE 308
MODESTO, CA
AUGUST 29, 2011 (MONDAY)
3:30 PM**

Board Agendas and Minutes: Policy Board agendas, minutes and copies of items to be considered by the StanCOG Policy Board are available at least 72 hours prior to the meeting at the StanCOG offices located at 1111 "I" Street, Suite 308, Modesto, CA during normal business hours. The documents are also available on StanCOG's website at www.stancong.org/policy-board.shtm.

Materials related to an item on this Agenda submitted to the Policy Board after distribution of the agenda packet are available for public inspection at the address listed above during normal business hours. These documents are also available on StanCOG's website, subject to staff's ability to post the documents before the meeting.

Public Comment Period: Matters under the jurisdiction of the Policy Board, and not on the posted agenda, may be addressed by the general public at the beginning of the regular agenda and any off-agenda matters before the Policy Board for consideration. However, California law prohibits the Policy Board from taking action on any matter which is not on the posted agenda unless it is determined to be an emergency by the Policy Board. Any member of the public wishing to address the Policy Board during the "Public Comment" period will be limited to 5 minutes unless the Chair of the Board grants a longer period of time. At a Special Meeting, members of the public may address the Board on any item on the Agenda at the time the item is considered by the Board.

Public Participation on a Matter on the Agenda: Please step to the podium at the time the agenda item is announced by the Chairperson. In order to ensure that interested parties have an opportunity to speak, any person addressing the Policy Board will be limited to a maximum of 5 minutes unless the Chair of the Board grants a longer period of time.

Reasonable Accommodations: This Agenda shall be made available upon request in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact Cindy Malekos at (209) 525-4600 during regular business hours at least 72 hours prior to the time of the meeting to enable StanCOG to make reasonable arrangements to ensure accessibility to this meeting.

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AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENTS**

The public may comment on each item on the agenda as it arises.

4. DISCUSSION/ACTION ITEMS

A. Discussion – Update on Transit Performance Measures in the Stanislaus Region

5. EXECUTIVE DIRECTOR'S REPORT

6. ADJOURNMENT

Next Regularly Scheduled Executive Committee Meeting:

September 21, 2011 (Wednesday) @ 3:30 pm

StanCOG Board Room

1111 I Street, Suite 308

Modesto, CA 95354



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TO: Policy Board

Staff Report
Information

FROM: Vince Harris, Executive Director 

DATE: August 5, 2011

SUBJECT: Update on Transit Performance Measures in the Stanislaus Region

Background

The five transit operators in the Stanislaus Region are eligible to receive Local Transportation Funds (LTF) under the State of California's "Transportation Development Act" (TDA). In order to receive these funds each transit operator must maintain a minimum level of performance as required in the TDA. The "performance measure" identified in the TDA is the "Farebox Recovery Ratio" (FRR). FRR is the proportion of fares over total operating expenses.

At the April 20, 2011 StanCOG Policy Board meeting, Transit Managers from the City of Ceres' transit system (CAT) and the Cities of Riverbank and Oakdale's transit system (ROTA) expressed their desire for StanCOG to consider lowering or changing the current performance measure, due to concerns that their transit systems may be unable to achieve the minimum required FRR. Under the TDA if a transit operator is unable to achieve their minimum FRR, StanCOG as the Regional Transportation Planning Agency and administrator of LTF for the Region, is required to withhold a portion of these funds. Withholding of LTF by StanCOG is not an immediate action. TDA provides a three year "Penalty Cycle" prior to any reduction of LTF to the transit operator. At this time, it is anticipated that ROTA will be in the first phase of the Penalty Cycle in FY2010/11; with reduced LTF eligibility occurring in FY2012/13.

As reported previously, FRR has not just been an issue for CAT and ROTA. Most recently (as allowed under TDA), the StanCOG Policy Board approved a request from MAX that merged its 20% FRR for "Fixed Route" service and its 10% FRR for "Dial-A-Ride" service into a combined 15% FRR. This request was made by MAX because of the operator's concern for possible future non-attainment of FRR at the required independent levels.

Discussion

Transit performance measures were discussed in May and June with the five transit operators, at StanCOG's advisory committees, and at the StanCOG Policy Board meeting on June 15th. From these meetings staff formulated the following discussion questions:

1. Is FRR the appropriate metric to establish eligibility for receipt of LTF?
2. Are the current required FRR attainment levels reasonable standards for the Region's transit operators?
3. Should the FRR for a smaller city such as Ceres be set at the same level of attainment as a large urbanized area like Modesto?
4. Does TDA allow the Region's transit operators to file under Article 8?
As a clarification, typically TDA Article 4 is used to file claims by transit operators and Article 8 is used to file "local street and road" or ADA claims.
5. Under the TDA, does StanCOG (as the Regional Transportation Planning Agency) have the authority to change the current performance measure for receipt of LTF; or is this a legislative action?

With input from StanCOG's standing committees and the Policy Board, staff has proceeded with question 5 above as the starting point to address the concerns raised by the Cities of Ceres, Riverbank and Oakdale. Staff has requested and received Legal Counsel's formal opinion to address this question. Staff is working with Counsel to design an implementation procedure for the transit operators based in this opinion. This item will be brought to the Policy Board in September.

The following items were discussed at the July 26, 2011 Transit Managers meeting:

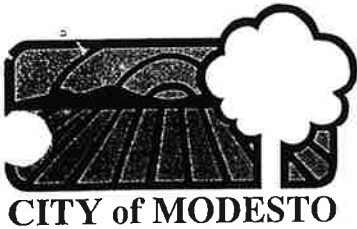
1. Legal Counsel's opinion on question 5 identified above.
2. Discussion of the Auditor/Controller's reassessment of estimated Local Transportation Fund (LTF) apportionment for FY 2011/12.
3. Discussion of FY2011/12 Local Transportation Fund (LTF) transit claims.
4. Continued discussion of various transit performance measures relative to Legal Counsel's opinion identified in item 1 above.
5. Review of the timeline and work approach to complete the 90 day regional transit assessment discussed at the June 15th Policy Board meeting.

In addition, there was discussion on the attached correspondence received from the City of Modesto regarding StanCOG's current and historic approach to distributing "Supplemental Apportionments" of LTF. This item has been referred to StanCOG's Legal Counsel for a formal opinion.

Advisory Committee Action

This item was presented to the Citizens Advisory Committee (CAC) and Management and Finance Committee (M&FC) as an information item. No action by the committees was required. However, there was discussion at M&FC regarding Local Transportation Funds and the City of Modesto's attached letter regarding StanCOG's "Supplemental Apportionment" process.

Attachment: City of Modesto letter dated July 11, 2011 –Supplemental Apportionment Process
v:stancog/staff/harris/staff reports/information on update on transit performance measures PB



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Hearing and Speech
Impaired Only
TDD 209/526-9211

July 11, 2011

Mr. Vince Harris
Executive Director
StanCOG
1111 I Street, Suite 308
Modesto, CA 95354

Dear Mr. Harris,

StanCOG's process of distributing Local Transportation Fund (LTF) money through the Supplemental Apportionment process, as described in StanCOG's Transit Cost Sharing Procedures, appears to be inconsistent with the requirements of the Transportation Development Act (TDA). I respectfully request that StanCOG review and revise its current supplemental process prior to the next utilization of that process to ensure its consistency with the intent and specific requirements of the TDA.

The term "estimated apportionment", as used in the context of the distribution of LTF funds, is the amount of LTF funds the County Auditor predicts will be collected during the ensuing fiscal year and is announced by StanCOG to the transit operators prior to March 1 each year. By regulation (California Code of Regulations Section 6620), the unrestricted balance anticipated to be available in the fund at the end of the current fiscal year must be included in the estimated apportionment for the ensuing year. At present, the unrestricted balance is treated as "supplemental apportionments" per StanCOG's Transit Cost Sharing Procedures and distributed through the street and road formula.

The following excerpts from the TDA are very clear that the estimated apportionment for the ensuing fiscal year must include all funds estimated to become available during the ensuing year plus any funds anticipated to be collected during the current year that are in excess of the estimated apportionment for the current year.

***Estimate of Fund by County Auditor
6620***

Each county auditor shall furnish to the transportation-planning agency an estimate of moneys to be available for apportionment and allocation during the ensuing fiscal year. The estimate shall include those moneys anticipated to be deposited in the fund during the ensuing fiscal year and the unrestricted balance anticipated to be

available in the fund at the end of the current fiscal year. The unrestricted balance is the balance that is neither allocated, reserved, nor retained in the fund as an unallocated apportionment pursuant to Section 6655.1.

***Revised Determination of Apportionments
6655.5***

Any revenues to the fund for the fiscal year in excess of all moneys allocated, reserved, or retained in the fund as unallocated apportionments pursuant to Section 6655.1 shall be carried over and be available for apportionment and allocation in the following fiscal year.

At the June 27 Transit Manager's meeting you announced that you anticipate approximately \$15.6 million will be collected in LTF revenue during FY 10/11. That represents an unanticipated \$2.6 million increase in the estimate of \$13.3 million used as the basis for transit agency apportionments for that fiscal year. The \$2.6 million is clearly the "unrestricted balance anticipated to be available in the fund at the end of the current fiscal year" as referenced in the Code excerpt above. By law it must be included in the estimated apportionment for FY 11/12.

There seems to be a theory among some government agencies within the county that SB 344, which instituted the Transit Cost Sharing Program, enables StanCOG to use the supplemental process to preclude transit agency access to the unrestricted balance. SB 344, which is chaptered into law in the TDA as Section 99233.11, contains no mention of allocating funds to streets and roads or the establishment of anything similar to the supplemental process practiced by StanCOG.

In actual practice, StanCOG clearly needs some method of allocating street funds as part of the Cost Sharing Procedures, but the method should be consistent with the TDA and allow transit access to the unrestricted balance. The current supplemental process does not do that.

The City of Modesto is raising concerns about the supplemental apportionment process now because its transit service needs its lawful share of the unrestricted balance. In past years the amount of LTF estimated for apportionment in the ensuing year was so great that by itself it provided sufficient funding for transit. As a result none of the county's transit services were impacted when the unrestricted balance was distributed through the supplemental process. That is no longer true and the unrestricted balance is now needed to support transit.

The potential exists that in future years the estimated LTF apportionments will be set at more conservative levels than in previous years, producing a significant year end unrestricted balance. The more conservative approach to estimating the apportionment would result in fewer dollars for transit and thus make it far more important that the unrestricted balance be made available to transit before the remaining funds are disbursed to streets and roads.

In closing, we would greatly appreciate your review of the current supplemental process as to its consistency with the TDA and its implementing regulations. We are very confident that you will find it is inconsistent with the requirements of the TDA and in need of revision.

Thank you in advance for your expeditious attention to this matter.

Sincerely,



Greg Nyhoff
City Manager

Cc: Jim Ridenour, Mayor
Fred Cavanah, Transit Manager
Dennis Turner, Director of Public Works